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Counsel to the Post-Effective Date Debtors

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

In re:)	
)	Chapter 11
)	
CELSIUS NETWORK LLC, <i>et al.</i> , ¹)	Case No. 22-10964 (MG)
)	
Debtors.)	(Jointly Administered)
)	

**POST-EFFECTIVE DATE DEBTORS' RESPONSE TO DISTRIBUTION
ISSUES RAISED BY CORPORATE CREDITORS AND RETAIL BORROWERS**

At the hearing on Wednesday, March 20, 2024, counsel to the Post-Effective Date Debtors provided an update on Plan distributions to the Court.² Many *pro se* creditors had an

¹ The Post-Effective Date Debtors in these chapter 11 cases, along with the last four digits of each Post-Effective Date Debtor's federal tax identification number, are: Celsius Network LLC (2148); Celsius KeyFi LLC (4414); Celsius Lending LLC (8417); Celsius Mining LLC (1387); Celsius Network Inc. (1219); Celsius Network Limited (8554); Celsius Networks Lending LLC (3390); Celsius US Holding LLC (7956); GK8 Ltd. (1209); GK8 UK Limited (0893); and GK8 USA LLC (9450). The location of Post-Effective Date Debtor Celsius Network LLC's principal place of business and the Post-Effective Date Debtors' service address in these chapter 11 cases is 50 Harrison Street, Suite 209F, Hoboken, New Jersey 07030.

² Capitalized terms not immediately defined have the meaning ascribed to them in the *Modified Joint Chapter 11 Plan of Reorganization of Celsius Network LLC and Its Debtor Affiliates (Conformed for MiningCo Transaction)* [Docket No. 4289] (the "Plan"), the *Disclosure Statement for the Joint Chapter 11 Plan of Reorganization of Celsius Network LLC and Its Debtor Affiliates* [Docket No. 3332] (the "Disclosure Statement"), or the *Order (I) Approving the Adequacy of the Debtors' Disclosure Statement, (II) Approving the Solicitation and Voting Procedures with Respect to Confirmation of the Debtors' Joint Chapter 11 Plan of Reorganization, (III) Approving the Form of Ballots and Notices in Connection Therewith, (IV) Scheduling Certain Dates with Respect Thereto, (V) Authorizing and Approving Reimbursement of Certain of the Plan Sponsor's Fees and Expenses, and (VI) Granting Related Relief* [Docket No. 3337].

opportunity to speak and raise issues that they have encountered in the distribution process. The Court directed the Post-Effective Date Debtors to respond in writing to certain of the common concerns that were raised during the hearing and in letters filed on the docket.³ A transcript of the March 20, 2024 hearing is attached hereto as **Exhibit A**.

Detailed responses to common concerns are discussed in the sections that follow. However, as a general matter, the Post-Effective Date Debtors believe that the arguments raised by creditors, including those who filed letters on the docket on behalf of dozens of corporate creditors and retail borrowers, illustrate an undeniable reality: it is not feasible for the Post-Effective Date Debtors to adjust the treatment of creditors based on fluctuating market prices. Each group of creditors has a different request, and what is beneficial to one group is often detrimental to another group. Where corporate creditors request that corporate creditors receiving Cash distributions tied to the January 16, 2024 price of Liquid Cryptocurrency receive additional Cash to account for the *current* market price of Liquid Cryptocurrency, retail borrowers who elected to refinance their loans request that they be allowed to refinance using the *January 16, 2024* price of Liquid Cryptocurrency. As detailed further in this response, the Plan provides clear answers to the requests from these creditors by setting a record date of January 16, 2024 to “draw a line” for the valuation of volatile assets. These creditors believe they are being harmed and treated “inequitably,” but this is what the Plan provides. The perceived “inequity” is based not on what the Plan provides or how it is being administered, but rather on the rise in cryptocurrency prices in the weeks since January 16, 2024. The Debtors sized their reserves based on the January 16, 2024 record date and simply cannot afford to “top up” distributions whenever cryptocurrency prices happen to rise after the record date of January 16, 2024. Moreover, if the Post-Effective Date Debtors are required to make these adjustments, other creditors could also come forward and request adjustments for what they believe would be fair given shifts in market prices. Ultimately, adjustable treatment invites more complexity and inequity to the creditor body as a whole. While individual creditors and creditor groups are understandably concerned with maximizing their individual distributions, the Post-Effective Date Debtors are working to maximize the returns for *all* creditors and implementing the Plan as approved by the Bankruptcy Court.

Response to the Corporate Creditor Group

On March 18, 2024, a group of 75 corporate creditors (the “Corporate Creditor Group”) who have been notified that they will receive their distribution in Cash (US Dollars) rather than cryptocurrency filed a letter on the docket requesting that the Court order the Post-Effective Date Debtors to distribute Liquid Cryptocurrency to all corporate creditors [Docket No. 4719].⁴ The

³ The Post-Effective Date Debtors previously provided updates on the distribution process in the *Notice of Occurrence of Effective Date of Debtors’ Modified Chapter 11 Plan of Reorganization and Commencement of Distributions* [Docket No. 4298] (the “Effective Date Notice”), the *Post-Effective Date Debtors’ First Update on Distributions* [Docket No. 4319] (the “First Distribution Notice”) and the *Post-Effective Date Debtors’ Second Update on Distributions* [Docket No. 4623] (the “Second Distribution Notice”).

⁴ Other corporate creditors also filed letters raising questions and concerns about the distribution process for corporate creditors. *See, e.g.*, Matthews Letter [Docket No. 4680], Andrus Letter [Docket No. 4550], Patel Letter [Docket No. 4515], Sarver Letter [Docket No. 4489].

group further requested that, where a distribution to a corporate creditor is not possible, corporate creditors should receive the Cash equivalent to the market price of BTC and ETH at the time of the distribution (and corporate creditors who have already received their Cash distributions should be made whole based on the market price of BTC and ETH at the time of those distributions). Three signatories of the letter, Laura McNeil, Wesley Chang, and Riece Keck spoke at the hearing and reiterated the group's requests.⁵ As set forth in the letter and during the hearing, the Corporate Creditor Group further asserts that:

- it is discriminatory for the Post-Effective Date Debtors to provide Liquid Cryptocurrency distributions to 100 corporate creditors through Coinbase;
- it is unfair for the corporate creditors receiving Liquid Cryptocurrency to benefit from the recent price increase of BTC and ETH while corporate creditors receiving Cash are tied to the January 16, 2024 prices of BTC and ETH;
- it is unfair that individual creditors who may be transitioned from a Liquid Cryptocurrency distribution to a Cash distribution will receive the proceeds of a market price sale of their Liquid Cryptocurrency distribution while corporate creditors receiving Cash are tied to the January 16, 2024 price of BTC and ETH;
- the Post-Effective Date Debtors are accommodating Coinbase rather than corporate creditors;
- a lottery for the 100 corporate creditor slots with Coinbase would have been more equitable;
- the increased administrative burden of servicing additional corporate creditors with Liquid Cryptocurrency distributions does not justify the fact that only 100 corporate creditors will receive Liquid Cryptocurrency distributions; and
- the Post-Effective Date Debtors should not have sold Liquid Cryptocurrency for Cash in January "if they didn't have a viable banking partner to make distributions."

The Post-Effective Date Debtors' response to these issues is set forth below:

Distributions to corporate creditors are being made in accordance with the terms of the Plan. The Post-Effective Date Debtors acknowledge the frustrations felt by these 75 corporate creditors and other corporate creditors who are not among the 100 corporate creditors receiving Liquid Cryptocurrency and are therefore receiving Cash at January 16, 2024 prices. The Post-Effective Date Debtors acknowledge that this will mean that these corporate creditors will not benefit from the run-up in market prices of cryptocurrency that has occurred after the Effective Date, but that is what the Plan provides, as set forth below. However, as acknowledged by a corporate creditor at the hearing, creditors were "indifferent" to the distribution mechanics

⁵ Ms. McNeil's, Mr. Chang's, and Mr. Keck's comments at the March 20, 2024 hearing can be found on pages 49-52 of the March 20, 2024 Hr'g. Tr.

up until the price of BTC and ETH started increasing after the Effective Date.⁶ Before addressing these specific concerns, the Post-Effective Date Debtors want to emphasize that this is an extraordinarily complex distribution process that is enabling the return of cryptocurrency to as many creditors as possible around the world in a regulatorily compliant manner. As stated at the hearing, Celsius is making distributions to approximately 400,000 creditors in over 190 countries around the world. Of these 400,000 creditors, approximately 1,800 are corporate creditors.

The Post-Effective Date Debtors entered into distribution agreements with PayPal and Coinbase after months of negotiations because they are both publicly listed, regulated in multiple markets, and have demonstrated expertise in delivering a range of financial services to hundreds of millions of users. Accordingly, the Post-Effective Date Debtors believed that PayPal and Coinbase would allow the Post-Effective Date Debtors to distribute cryptocurrency to as many people as possible while fully complying with all regulatory requirements in different jurisdictions. However, PayPal and Coinbase cannot provide distributions to every country where Celsius creditors are located or to every creditor: PayPal provides distributions to creditors residing in the United States and Coinbase provides distributions to creditors residing in approximately 100 countries outside the United States. While some creditors, both individual and corporate, have asserted that the Post-Effective Date Debtors could have entered into agreements with additional cryptocurrency distribution partners, the Post-Effective Date Debtors did explore potential agreements with other potential distribution partners but ultimately determined that they did not meet the regulatory, security, or financial standards required. There are also unique reasons why a particular creditor cannot receive a distribution from PayPal or Coinbase, including that the creditor does not pass the distribution agent's compliance and onboarding process or that the creditor is banned from the platform for violation of the platform's terms of service. Accordingly, the Plan—which more than 98% of creditors voted to approve—has *always* provided that if a distribution cannot be made in cryptocurrency for any reason, it will be made in Cash. This applies to every creditor's distribution, whether the creditor is an individual creditor or a corporate creditor.

Specifically, the Plan provides that the Post-Effective Date Debtors shall make Plan distributions in Cash in cases where it is not possible to distribute Liquid Cryptocurrency, including for Anti-Money Laundering (AML) and Know-Your-Customer (KYC) compliance reasons and *because no Distribution Agent is available to make a particular creditor's distribution in Liquid Cryptocurrency*.⁷ While negotiating the distribution agreements with PayPal and Coinbase, the issue of cryptocurrency distributions to corporate creditors was discussed at length. Only Coinbase was willing to make any cryptocurrency distributions to corporate creditors, and after extensive negotiations, Coinbase agreed to provide distributions to

⁶ March 20, 2024 Hr'g Tr. 50:12-14.

⁷ See Plan, Art. IV.K.1 ("The Debtors (and, following the Effective Date, the Plan Administrator) shall use commercially reasonable efforts to make distributions of Liquid Cryptocurrency as provided for in this Plan to Account Holders in Liquid Cryptocurrency (as opposed to fiat) to the greatest extent possible. For the avoidance of doubt, if the Debtors or the Plan Administrator cannot make a distribution of Liquid Cryptocurrency to a particular creditor (including because no Distribution Agent is available to make such distribution), such creditor will receive a distribution of fiat.").

only 100 corporate creditors. As explained at the hearing, this is because the onboarding, KYC, and AML compliance processes for corporate creditors are more complicated and take significantly longer to complete than those for individual creditors. This is particularly true today in light of current sanctions regimes.⁸ Accordingly, the negotiated agreement with Coinbase provides for a Liquid Cryptocurrency distribution to 100 corporate creditors. Therefore, no Distribution Agent has ever been available to service all 1,800 corporate creditors, and corporate creditors are being treated in accordance with the terms of the Plan, which provides that any creditor who cannot receive cryptocurrency for any reason will receive Cash. As explained in the Effective Date Notice, distributions were calculated using BTC and ETH prices as of January 16, 2024, which were \$42,972.9948 for BTC and \$2,577.4752 for ETH.

The Corporate Creditor Group believes it is being treated differently from individual creditors who are originally scheduled to receive Liquid Cryptocurrency but who may be transitioned to a Cash distribution. As also explained in the Second Distribution Notice, the Plan provides that, to calculate the amount of Liquid Cryptocurrency each eligible creditor would receive, the Debtors were required to use applicable cryptocurrency prices as of the date that was approximately 15 days before the Effective Date. Because the Effective Date was anticipated to be January 31, 2024, the Debtors were required to use cryptocurrency prices as of January 16, 2024 to calculate the amount of Liquid Cryptocurrency to allocate to creditors eligible to receive Liquid Cryptocurrency and the amount of Cash to allocate to those creditors who were initially scheduled to receive Cash rather than Liquid Cryptocurrency. The Debtors set aside Liquid Cryptocurrency for each creditor initially scheduled to receive Liquid Cryptocurrency, and sold cryptocurrency on or around January 16, 2024 to set aside Cash for those creditors scheduled to receive Cash. Therefore, the amount of Liquid Cryptocurrency and Cash to be distributed has been set since January 16, 2024. The Plan provides that in those circumstances where a creditor initially set to receive Liquid Cryptocurrency cannot be serviced by a distribution partner, the Post-Effective Date Debtors could sell the Liquid Cryptocurrency at the prevailing market price as close to the expected date of the Cash distribution as possible and the creditor would receive the proceeds of the sale.⁹ Because only 100 corporate creditors are set to receive Liquid Cryptocurrency as of the Effective Date, this process and market price adjustment cannot be applied to the remaining 1,700 corporate creditors.

⁸ March 20, 2024 Hr’g Tr. 37:8-11 (“The Court: The sanctions regime in effect with respect to Russia currently in effect restricts any distributions to a fairly broad [swath] of individuals or entities.”).

⁹ See Plan, Art.IV.K.1 (“If there is no Distribution Agent capable of making a distribution to the Account Holder in Liquid Cryptocurrency at the time such Account Holder’s Claim becomes an Allowed Claim or is otherwise made available for distribution and the Plan Administrator has not otherwise converted such Liquid Cryptocurrency to fiat, the Debtors, Post-Effective Date Debtors or Plan Administrator, as applicable, shall convert the Liquid Cryptocurrency that would otherwise be distributed to the Account Holder to fiat currency as close to the anticipated date of distribution as reasonably practical under the circumstances, and shall distribute such fiat currency to the Account Holder. Additionally, if a creditor’s AML/KYC Compliance Information results in a change in the form of consideration to be paid to such creditor (i.e., a creditor will receive fiat currency instead of Liquid Cryptocurrency, or vice versa, due to a change in the applicable Distribution Agent), then the Plan Administrator will convert the Liquid Cryptocurrency that would otherwise be distributed to the creditor to fiat currency (or vice versa) as close to the anticipated date of distribution as reasonably practical under the circumstances, and shall distribute such fiat currency or Liquid Cryptocurrency, as applicable, to the Account Holder.”)

The Corporate Creditor Group provides no feasible solutions. The Corporate Creditor Group argues that, even though the agreement with Coinbase only provides for distributions to 100 corporate creditors, the Post-Effective Date Debtors should distribute cryptocurrency to all corporate creditors. The Corporate Creditor Group does not explain how this is to be done practically when no additional distribution partner is available to provide distributions to the remaining 1,700 corporate creditors. The Corporate Creditor Group further argues that there has been a delay in distributions and that this has caused corporate creditors to suffer further losses due to the increase in market price of BTC and ETH. Yet the Corporate Creditor Group does not acknowledge that attempting to identify additional distribution partners who can provide distributions to corporate creditors in dozens of countries around the world, negotiating multiple separate distribution agreements, and distributing cryptocurrency to additional corporate creditors at this stage of the process—at the same time as the distribution process to hundreds of thousands of individual creditors needs to continue—will only result in further delays. Moreover, the Post-Effective Date Debtors are not holding Liquid Cryptocurrency in reserve for corporate creditors who were scheduled to receive Cash, so even if a distribution agent was available to make cryptocurrency distributions to 1,700 corporate creditors, the Post-Effective Date Debtors would have to buy Liquid Cryptocurrency at today's market prices.

The Corporate Creditor Group would likely respond by reiterating its request that, if Liquid Cryptocurrency distributions cannot be made to all corporate creditors, corporate creditors should receive the Cash equivalent to the market price of BTC and ETH at the time of the distribution (and corporate creditors who have already received their Cash distributions should be made whole based on the market price of BTC and ETH at the time of those distributions). Such an adjustment would inevitably cost tens of millions of dollars. But more importantly, such an adjustment implicates the entire distribution process. Setting aside the fact that the market price of BTC and ETH continues to fluctuate and there is no guarantee that the price of BTC and ETH will always be higher in the future than it was on January 16, 2024, here, too, the problem of perceived unfairness is the same: if the Post-Effective Date Debtors distribute the Cash equivalent to the market price of BTC and ETH to all 1,700 corporate creditors set to receive Cash as of the Effective Date, all individual creditors who were originally scheduled to receive Cash rather than Liquid Cryptocurrency could demand the same. This is not feasible, operationally or financially. More to the point, as already noted, corporate creditors receiving Cash—and for that matter, individual creditors receiving Cash—are being treated in accordance with the terms of the Plan. There is no unfair treatment.

Corporate creditors originally scheduled to receive Cash cannot be treated the same way as individual creditors originally scheduled to receive Liquid Cryptocurrency who are switched to Cash. Such individual creditors are only receiving the proceeds of a distribution that was already set aside for them as of the Effective Date; they are not receiving an adjustment that comes out of the reserve funds of the estate. The mechanics were designed in this way because there was no alternative method to equitably account for constant market fluctuations. This Plan provision was also necessary to assuage the concerns of some creditors who have claimed that the Post-Effective Date Debtors are holding on to Liquid Cryptocurrency because they want to benefit from the recent increase in BTC and ETH prices by keeping the difference between the Effective Date value of the Liquid Cryptocurrency and the market price value of the Liquid Cryptocurrency. However, as should be clear from the above, the value of the Liquid

Cryptocurrency allocated to each creditor eligible to receive Liquid Cryptocurrency as of the Effective Date will be distributed to that creditor and no one except the creditor is benefiting from “the overage.”¹⁰

A lottery would not have allowed for the efficient distribution of cryptocurrency. The Corporate Creditor Group also argues that instead of allocating cryptocurrency distribution slots to the 100 corporate creditors with the largest Claims who were eligible to receive a distribution as of the Effective Date (*i.e.*, they did not have Withdrawal Preference Exposure, did not opt out of the Class Claim Settlement, or were held back for any other reason), the Debtors should have held a lottery to determine which corporate creditors would receive one of the 100 slots. But the Post-Effective Date Debtors firmly believe that it was more efficient and equitable to distribute as much cryptocurrency as possible, which was only possible by distributing to the largest corporate creditors. Of the 1,800 corporate creditors, 571 hold Claims of less than \$1,000, 321 hold Claims between \$1,000 and \$5,000, and 951 hold Claims greater than \$5,000. In contrast, the top 100 corporate creditors eligible for distribution as of the Effective Date hold \$112 million in Claims, representing more than 45% of the dollar value of all corporate creditor Claims.

Distributions through the Celsius App were not feasible. At the Hearing, Mr. Chang and another creditor acknowledged that KYC and AML compliance processes for corporate creditors are complex but asked why the Debtors had to involve third-party distribution agents at all when corporate creditors had already undergone that process with Celsius directly.¹¹ Corporate creditors also asked why distributions could not be made directly via the Celsius App.¹² As they explained previously and at the hearing, it is not regulatorily compliant for Celsius to enable withdrawals from the Celsius App to anyone other than Custody Account Holders, who the Court ruled owned the cryptocurrency that was transferred to their Custody Accounts. Celsius does not have the U.S. Money Transfer Licenses (or their equivalent in non-U.S. jurisdictions) required to comply with applicable regulations to enable those withdrawals to individuals or corporations. In addition, to distribute to corporate creditors located outside the United States, Celsius would have to engage local counsel in all countries where corporate creditors are located to review and determine that it would be able to complete cryptocurrency distributions. Identifying, engaging, and working with law firms in all jurisdictions where corporate creditors are located is not feasible or efficient. Similarly, maintaining the Celsius App for an extensive period of time is too expensive, and therefore not feasible.

¹⁰ The Court requested that the Post-Effective Date Debtors confirm this in their written response. March 20, 2024 Hr’g Tr. 24:4-14, 21-22 (“Mr. Koenig:...The plan provides that we can sell that crypto and give them whatever the proceeds are, because I actually have the crypto. We have the crypto I should say. So if today we converted somebody that was banned at PayPal to Fiat and you were going to get one Bitcoin, you would get one Bitcoin—whatever today’s prices are. I’ve seen a lot of letters and a lot of concerns saying Celsius is going to steal the overage. If we have it, we will give it to you. Nobody is stealing anything. Nobody is stealing anything...The Court: Is there a place where [creditors] can look and see essentially what you’ve just said?”).

¹¹ March 20, 2024 Hr’g Tr. 47:17-25, 48:1-3.

¹² March 20, 2024 Hr’g Tr. 69:9-12.

The distribution agreement with Coinbase only provides for 100 slots to corporate creditors. Some corporate creditors also stated that they already have accounts that are fully onboarded with Coinbase Prime and therefore Coinbase should make distributions to them.¹³ However, the distribution agreement with Coinbase only provides for 100 slots, and the Debtors reserved Liquid Cryptocurrency for those 100 corporate creditors and converted the cryptocurrency distribution for the remaining corporate creditors to Cash as of the record date of January 16, 2024. Even if the Post-Effective Date Debtors were able to renegotiate the distribution agreement with Coinbase to provide for distributions to additional corporate creditors, there are no Liquid Cryptocurrency distributions available for the corporate creditors outside of the 100 who have been chosen for a Coinbase slot. Further, there are significant costs associated with making cryptocurrency distributions to corporate creditors through Coinbase, and this cost was not included in the budget for distributions. The Post-Effective Date Debtors are not a company that can keep operating indefinitely but must complete distributions as soon as possible.

The Debtors switched banking partners in response to real-time developments. Finally, the Corporate Creditor Group asserts that the Debtors should not have sold Liquid Cryptocurrency for Cash in January “if they didn’t have a viable banking partner to make distributions.” For the avoidance of doubt, the Post-Effective Date Debtors want to confirm that it was not clear until after the Effective Date that their original banking partner’s financial condition became uncertain. The Debtors sold Liquid Cryptocurrency in January with no expectation that their banking partner’s financial condition would become precarious. Once they learned that this was the case, the Post-Effective Date Debtors pivoted quickly to a new banking partner. Further, as explained in the previous paragraph, the Plan required the Debtors to sell cryptocurrency to set aside Cash fifteen days before the anticipated Effective Date.

Response to Retail Borrowers

On March 19, 2024, a group of 30 retail borrowers (the “Borrower Group”) who have elected to refinance their loans filed a letter on the docket raising concerns about the refinancing process [Docket No. 4716].¹⁴ Christian Funck, a signatory to the letter, spoke at the hearing.¹⁵ As set forth in the letter and during the hearing, the Borrower Group asserts that borrowers who elected to refinance are being treated unfairly compared to borrowers who repaid their loans directly in January and Earn creditors who are receiving Liquid Cryptocurrency tied to January 16 prices, because the refinancing process is partly subject to the market price of BTC and ETH.

¹³ March 20, 2024 Hr’g Tr. 66:1-14.

¹⁴ Similar arguments have been raised in a recent filing by a group of borrowers. *See* [Docket No. 4766].

¹⁵ Mr. Funck’s remarks at the March 20, 2024 hearing can be found on pages 55-56 of the March 20, 2024 Hr’g. Tr.

The Plan provides two treatment options to borrowers: the Repayment Election and the Set Off Treatment.¹⁶ The Repayment Election can be implemented through direct repayment by the borrower or through refinancing of the borrower's loan, and the Plan provides that the Debtors take commercially reasonable efforts to facilitate the refinancing process with third-party lenders.¹⁷ In January, the Debtors sent borrowers a notice providing them the opportunity to choose whether they wanted to repay their loan directly, refinance, or receive the Set Off Treatment. The notice stated that borrowers electing to refinance would receive further instructions about the refinancing process on or after the Effective Date.

Under the direct Repayment Election, borrowers were able to repay their loans by making a US Dollar payment equal to the amount of their outstanding loans to the Debtors between January 21, 2024 and January 26, 2024. In return, borrowers would receive an equivalent amount of BTC and ETH valued as of noon prevailing Eastern Time on the date of repayment (which would be paid to the borrower as part of the borrower's total distribution under the Plan). If a borrower instead decided to refinance its loan, the third-party lender must repay the borrower's loan by making the payment to the Debtors, the Debtors would use those funds to purchase an equivalent amount of BTC and ETH on the market, and that BTC and ETH are then transferred to the third-party lender for use as collateral for the borrower's refinanced loan with the lender. The refinancing process is now underway, but because it is an ongoing process occurring after the Effective Date, during which time the market price of BTC and ETH has increased substantially, borrowers who elected to refinance are effectively receiving less cryptocurrency than borrowers who repaid their loans directly to the Debtors during the repayment period in January—with respect to their excess collateral Claim. Notably, the portion of a borrower's Claim that remains after application of a loan repayment amount, *i.e.*, the set-off amount, was calculated using January 16, 2024 cryptocurrency prices, and borrowers are being treated exactly the same as all Earn creditors with respect to that portion of their Claim. However, with respect to a borrower's excess collateral claim, the Plan provides for a market price purchase of BTC and ETH in return for repayment of a borrower's loan. Accordingly, borrowers who elected to refinance are being treated in accordance with the terms of the Plan.

The Borrower Group states in its letter that they expected the refinancing process to occur on the Effective Date. The Post-Effective Date Debtors acknowledge that the refinancing process has taken time to complete. However, nowhere in the Plan or otherwise did the Debtors state that the refinancing process would definitively occur on the Effective Date. The Debtors' notice to borrowers in January stated that the refinancing process would begin on or after the Effective Date. Finally, the refinancing process has taken time to set up because it is

¹⁶ See Plan, Art. III.B.2. Under the Set Off Treatment, the principal amount of the loan owed to the Debtors is set off or recouped against the applicable "Retail Borrower Deposit Claim," or the Petition Date value of the cryptocurrency transferred as collateral for the borrower's loan. The borrower retains the proceeds of its loan and has the associated Retail Borrower Deposit Claim reduced by the amount of the loan outstanding on the Petition Date. The remaining amount of the Retail Borrower Deposit Claim (*i.e.*, the "Retail Borrower Post-Set Off Claim") receives the Unsecured Claim Distribution Consideration (*i.e.*, its pro rata portion of (1) Liquid Cryptocurrency, (2) MiningCo Common Stock, (3) Illiquid Recovery Rights, and (4) Litigation Proceeds) or Convenience Class Distribution, as applicable.

¹⁷ See Plan, Art. IV.B.7.

complicated and has required coordinating with many individual borrowers and several third-party lenders. The Post-Effective Date Debtors have worked to secure authorization from electing borrowers to share data with third-party lenders, provide that data to third-party lenders, wait for borrowers to enter into agreements with their chosen third-party lenders, secure direction letters from borrowers to release their distribution to their chosen lender, among other steps.

The Borrower Group requests that borrowers electing to refinance be allowed to purchase BTC and ETH according to Effective Date pricing (*i.e.*, January 16 pricing) or the average market price of BTC and ETH during the January 21-January 26 period when borrowers were able to repay their loans directly to the Debtors. In effect, the Borrower Group is requesting that the Post-Effective Date Debtors subsidize the cost of purchasing BTC and ETH for refinancing borrowers in the same way that corporate creditors want the Post-Effective Date Debtors to increase Cash distributions to make up for the increase in market prices of BTC and ETH. This would benefit these individual creditors at the expense of all others by giving these borrowers a new guaranteed option to buy cryptocurrency at below-market prices with the benefit of hindsight—and at a cost to the estate and all other creditors. As in the case of corporate creditors, the Post-Effective Date Debtors believe that it is neither feasible nor fair to other creditors to adjust distributions in real time in response to daily market fluctuations.

The Borrower Group also asserts that “[s]ome creditors have received their settlements, some only partially and some not at all with almost no communication options with the debtor;” “[s]ome are being forced to accept USD and not crypto as the plan laid out...;” “[t]he upside of increasing prices in crypto stays with the debtor despite the assets creating the upside belonging to the creditors;” and “[t]he 5% increase for us voting in favor of the plan and opting into the class claim was not added our total claim value.” With respect to the first issue, the Post-Effective Date Debtors acknowledged in writing and at the March 20, 2024 hearing that communications with creditors need to be more frequent and more individualized, and they have been working to develop a more responsive communications plan. On the second point, and as previously noted in this response and prior filings, the Plan has always provided that creditors unable to receive Liquid Cryptocurrency would receive Cash. With respect to the issue regarding the Class Claim Settlement, the Second Distribution Notice explained that the 5% increase in scheduled Claims had been incorrectly calculated for borrowers so that borrowers did not receive the full extra amount due to them on account of the additional 5%, and that this would be corrected and that borrowers would receive the remaining amount in a subsequent distribution (*i.e.*, borrowers’ distribution would not be held back just for that adjustment). Finally, as for who benefits from the upside of cryptocurrency prices, the Confirmation Order approving the Plan set forth that the collateral borrowers transferred to Celsius belongs to the bankruptcy estate (as is the case for the cryptocurrency transferred to Celsius by Earn account holders), and it is not apt for borrowers to think of the collateral transferred on account of loans as “their collateral.” Ultimately, all remaining value of the estate will be returned to creditors in subsequent distributions. The Debtors do not benefit from increases in cryptocurrency prices; all creditors receive the benefit through the increase in value available for subsequent distributions.

Phishing Attempts Reminder

Many phishing attempts are active now that Plan distributions have become available. Please proceed with caution and review the Phishing Notices.

As a reminder, neither the Post-Effective Date Debtors nor their advisors will **ever** contact you by telephone call, social media, or text message to request account information or other personal information absent an (a) order by the Court or (b) on-the-record instruction from the Court.

If you see any suspicious website domains or receive any uncorroborated email, text message, or telephone call purporting to be from the Post-Effective Date Debtors or their advisors claiming that withdrawals are available or requesting account information, personal information, or payment, we request that you please ***immediately*** contact the Post-Effective Date Debtors' counsel at CelsiusCreditorQuestions@kirkland.com or the Post-Effective Date Debtors' claims, noticing, and solicitation agent, Stretto, at CelsiusInquiries@stretto.com.

Copies of the Phishing Notices, the Disclosure Statement, Plan, the Confirmation Order, and other pleadings filed in the above-captioned chapter 11 cases may be obtained free of charge by visiting the website of Stretto at <http://www.cases.stretto.com/Celsius>. You may also obtain copies of any pleadings by visiting the Court's website at <http://www.nysb.uscourts.gov> in accordance with the procedures and fees set forth therein.

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New York, New York
Dated: April 4, 2024

/s/ Joshua A. Sussberg

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Counsel to the Post-Effective Date Debtors

Exhibit A

March 20, 2024 Hearing Transcript

1 UNITED STATES BANKRUPTCY COURT

2 SOUTHERN DISTRICT OF NEW YORK

3 Case No. 22-10964-mg

4 - - - - - x

5 In the Matter of:

6
7 CELSIUS NETWORK, LLC,

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9 Debtor.

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11 United States Bankruptcy Court

12 One Bowling Green

13 New York, NY 10004

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15 March 20, 2024

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21 B E F O R E :

22 HON MARTIN GLENN

23 U.S. BANKRUPTCY JUDGE

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25 ECRO: KS

1 HEARING re Hybrid Hearing re: Post-Effective Date Debtors
2 Motion Seeking Entry of an Order (I) Approving Automatic
3 Revocation of Presumed Mistaken Convenience Claim Elections,
4 (II) Approving Optional Revocation Procedure for Eligible
5 Convenience Claim Elections, and (III) Granting Related
6 Relief. (Doc. ## 4372, 4417, 4530, 4336, 4433, 4434, 4485,
7 4713, 4732)

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P R O C E E D I N G S

CLERK: All rise.

THE COURT: Please be seated. Good morning, Mr. Koenig.

MR. KOENIG: Good morning, Your Honor.

THE COURT: Are you feeling lonely in the courtroom?

MR. KOENIG: Yeah. Mr. McCarrick at the last hearing said something like he'd lost all of his friends. And I think that sums it up.

THE COURT: All right. I don't mean to make fun. Just for those who are on Zoom, Mr. Koenig is the only one in the courtroom, obviously besides the judge and staff.

Mr. Koenig, go ahead.

MR. KOENIG: Thanks, Your Honor. For the record, Chris Koenig of Kirkland & Ellis for the post-effective-date Debtors.

So, Your Honor, there's been a bit of correspondence on the docket about the claims process. It feels like the early days of the case again. We only have one motion this morning that is I would describe almost uncontested. So with Your Honor's indulgence, I think it makes sense to give you some context for the distribution process, how things are going, common issues and things of that nature, especially given the number of creditors that

1 we have on the phone.

2 So this is the most complicated claims
3 distribution process that I've ever been a part of. We are
4 slated to make distributions to nearly 400,000 people in
5 almost every country in the world. It's over 150 countries.
6 And we will be distributing to anyone who is eligible to
7 receive cryptocurrency, we will give them cryptocurrency,
8 Bitcoin and Ethereum. And we will be distributing U.S.
9 Dollars to anyone who cannot receive cryptocurrency for any
10 reason. And this distribution process is very complicated
11 because we worked to give creditors what they demanded from
12 us; a distribution in cryptocurrency to the extent they
13 could receive it.

14 Our creditors are people who are bought into the
15 power and benefits of crypto. We held on to the crypto
16 through the bankruptcy. We did not sell it. Other debtors
17 have sold it. That would have been the easy thing to do.
18 FTX sold their crypto and is making distributions in U.S.
19 Dollars. But we know from our conversations with the
20 Committee, ad hoc groups, and individual creditors, our
21 creditors wanted crypto. And to the extent we were able to
22 give it to them, we wanted to do that.

23 Now of course we have to be able to give it to
24 them in a way that is regulatorily compliant. One of the
25 major issues in this entire case was what did the regulators

1 think about our distributions. And we worked carefully with
2 them to make sure that we were making distributions that
3 they were okay with. We worked with them to make
4 distributions of Bitcoin and Eth only, not of other alt
5 coins like Sushi Coin or Dogecoin or all of the other tokens
6 that Celsius offered perpetuation.

7 So we've worked with regulators to do something
8 that they would support. And Your Honor may remember we
9 actually had no objections from regulators to confirmation I
10 think as part of that process.

11 So we developed a very complex distribution plan
12 to give as many people crypto as possible while complying
13 with all regulations, which I will come back to in a moment.
14 We spent months preparing for this incredibly complicated
15 distribution. We started negotiating with potential
16 distribution agents last summer and we selected Coinbase and
17 PayPal around the time of the disclosure statement.
18 Coinbase and PayPal are some of the largest and most trusted
19 cryptocurrency distribution partners in the world. We
20 wanted to select partners that allowed us to make the most
21 distributions of cryptocurrency to the most possible people
22 while fully complying with all regulatory requirements in
23 all of the different jurisdictions. That includes Know Your
24 Customer and Anti-Money Laundering requirements, KYC and
25 AML.

1 Those requirements are really important. Because
2 I don't want to wake up and read the front page of the Wall
3 Street Journal and it turns out that we have distributed
4 currency to a Russian oligarch or a terrorist organization
5 or anything like that. And that's important to the
6 regulators too of course. So we found trusted distribution
7 partners who were fully regulatorily compliant in all of
8 these jurisdictions.

9 So let's go back to January where we were at the
10 peak of our preparation for the effective date. We were
11 preparing to send billions of dollars to hundreds of
12 thousands of people all over the world. And we thought at
13 the time that about 90 percent of those distributions could
14 be in cryptocurrency. And about ten percent that for
15 various reasons, the most important of which is what
16 jurisdiction are you in. PayPal is our distribution agent
17 in the United States. Coinbase is our international
18 distribution agent. Coinbase, we have about 150 countries
19 where we have customers to distribute to. Coinbase services
20 about half of them. And it's mostly the larger
21 jurisdictions; Western Europe, larger Asian countries and
22 the larger countries.

23 If you live in a smaller country in South America,
24 perhaps Coinbase doesn't have the license to distribute to
25 you. And of course if I don't have a distribution partner

1 that is allowed to distribute to you, we have to give you
2 dollars. That's the only thing we can do.

3 So what we did is we designed and we developed a
4 master claims management system that had every creditor in
5 the case. And what we thought -- we could give them the
6 crypto or give them cash based on where we thought they
7 lived at the time based on our record.

8 Now, that's not perfect. If I thought that you
9 lived in California, Your Honor, but you had actually moved
10 to Botswana, a place that Coinbase doesn't support, there's
11 going to be a little bit of movement of course. But we
12 believe that 90 percent of our creditors could get crypto.
13 We reserved enough Bitcoin and Ethereum to make
14 distributions to those people. And the plan provides that
15 for anybody that can't get cryptocurrency, we will give them
16 an equivalent amount of cash.

17 Now, the most complicated thing about this
18 distribution is that bitcoin is -- the price fluctuates. I
19 hesitate to call it a commodity because of the legal
20 implications. But for simplicity's sake, I'll say it's a
21 commodity.

22 THE COURT: Moved a little bit since the start of
23 this case, hasn't it?

24 MR. KOENIG: It moved a little bit since the
25 effective date, in fact, which is what I'm getting to.

1 So the plan drew a line in the sand. Here is the
2 distribution record date on which point we calculate all
3 distributions. So it's the cryptocurrency distribution
4 record date. And that date was set at 15 days before the
5 effective date, which turned out to be January 16th, 2024.
6 Now, that was important because we set aside an amount of
7 cash and crypto to make sure that we could comply with our
8 obligations under the plan. We had to reserve enough
9 crypto, we had to reserve enough cash because we knew that
10 it was possible that bitcoin as a commodity could fluctuate
11 up or fluctuate down, and there has to be a date at which we
12 all look and say this is the price, all of those sorts of
13 things.

14 So, for example, if somebody was entitled to
15 receive one Bitcoin and ten Ethereum. And we could reserve
16 crypto. It's very easy. Reserve one Bitcoin and ten
17 Ethereum. If you lived in a place that we couldn't give you
18 crypto or we didn't believe we could give you crypto for
19 whatever reason, we reserved an equivalent amount of cash at
20 January 16th prices. On January 16th, Bitcoin was about
21 \$43,000 and Ethereum was about \$2,600. Now, those prices
22 are about double what they were on the petition date and
23 they've gone up significantly more since.

24 But what we did was the best that we could do tat
25 the time with the information we had. And we were complying

1 with the plan, which set a date on which the calculations
2 would have been made.

3 Now, of course since January the price of crypto
4 has gone up. And that is great news for most of our
5 creditors. If you received crypto and you received Bitcoin,
6 that Bitcoin is now worth \$63,000, \$65,000 when it was worth
7 \$43,000. If you received a U.S. Dollar check for \$43,000, I
8 understand perhaps your frustration that, oh, if only I
9 could have received crypto, I would have received 65 instead
10 of 43. But se can't see into the future with a crystal
11 ball. All we could do was the best that we could at the
12 time. And as of January 16th, those are the prices.

13 And if the prices had gone the other way, those
14 creditors would have said, boy, Bitcoin was \$43,000 on the
15 effective date. You should have given me \$43,000.

16 So it's very difficult with this commodity that is
17 so fluid in price. And it's so expensive to hedge. We
18 couldn't have bought hedges for this just to have it. But
19 we understand the frustration of creditors that have
20 received cash instead of crypto. But we sold the crypto
21 that would have otherwise gone to them on or around January
22 16th in accordance with the plan. There's nothing else that
23 we can do. I've read all the letters that they -- boy, they
24 should make me whole, they should account for the runup in
25 prices. We can't do that. We sold their crypto a month-

1 and-a-half ago. We are doing our best.

2 And the whole point of the motion here today is to
3 try to do our best by as many people as humanly possible.
4 It's a very unusual motion. I've never filed it before. I
5 hope to never have to file it again. But I hope that Your
6 Honor and the parties listening know that we are endeavoring
7 to do our very best by everybody in this process. It's very
8 complicated and some things just can't be done. And there
9 were steps that had to be taken in January to prepare for
10 this eventuality. And yes, crypto went up. And that is
11 such great news for so many of our creditors. I think it
12 justifies the strategy we took in the case. But I don't
13 think anybody has been inequitably treated. It is what the
14 plan says. It is what the plan says.

15 So with that, I want to quickly turn to the status
16 of distributions and how has it been going. So my colleague
17 --

18 THE COURT: Either now or when you finish that, I
19 also want to hear about the status of the first two -- the
20 rest of the shares of MiningCo.

21 MR. KOENIG: Yes, no, wonderful. And I've got a
22 couple of other quick topics.

23 THE COURT: That's fine. Go in your --

24 MR. KOENIG: Thank you, Your Honor. And I
25 appreciate the preview.

1 So my colleague, Ms. Golic, we filed some slides
2 last night, Your Honor, to sort of illustrate how it's
3 going. And, Deanna, I believe that you made Ms. Golic a co-
4 presenter. So if she could present some of the slides. And
5 I'll start on this slide right here.

6 This sort of walks through our different
7 distribution channels and how it's been going. And these
8 percentages on the right column are the percentages of
9 people that are eligible to receive a distribution.

10 THE COURT: Let me ask you for a moment.

11 MR. KOENIG: Yes.

12 THE COURT: So for anyone who has access to ECF,
13 these slides were filed as ECF Docket 4732.

14 MR. KOENIG: Thank you, Your Honor.

15 THE COURT: Go ahead.

16 MR. KOENIG: So this presentation lays out as of
17 yesterday the amount of people that have successfully
18 claimed distributions. And there's percentages on the right
19 that say successfully distributed. And there's a footnote
20 that's too small perhaps to read on the screen. But what it
21 says is the percentages are of people that are eligible to
22 receive distributions. They're people that opt out of the
23 class claim settlement and they're going to litigate their
24 claims before Your Honor at some point in time. They're not
25 part of the denominator because they're just not eligible to

1 receive claims. Those sorts of things.

2 So today is I believe the 47th day after the
3 effective date. And we have successfully distributed --
4 that means somebody has actually claimed -- it is in their
5 account and it is in their hands, they can do whatever they
6 want with it. 86 percent if they were assigned to PayPal or
7 Venmo. And again, those are U.S. creditors predominantly.

8 Of the remaining 14 percent that haven't claimed a
9 distribution, 11 percent of them have not done the necessary
10 KYC process to register for their distribution, or they just
11 haven't clicked on their code. So with PayPal, eligible
12 creditors get two emails with individualized codes. They go
13 onto PayPal's website, they type in the code. And if
14 everything is correct, it will just be deposited in their
15 account.

16 THE COURT: Just for creditors in the United
17 States who elected for crypto, where can they look to find
18 the instructions that you've just described as to what to do
19 in the case that they -- you say three percent that have
20 failed to onboard, et cetera. Where can they look to get
21 the directions as to what to do?

22 MR. KOENIG: Thank you, Your Honor. So in the
23 email that everybody receives, there are links to FAQs and
24 other help services that are there. We filed several claims
25 distribution updates. The company has an FAQ as well.

1 Those are all in filings on the docket. They are pretty
2 prominently titled. You know, Debtor's first update on
3 distributions, Debtor's second update on distributions. And
4 anybody listening, if you can't find it, feel free to reach
5 out to and we'll be happy to --

6 THE COURT: Let me suggest this. After the
7 hearing today, put it on the docket again so somebody
8 doesn't have to search the entire docket looking for it.

9 MR. KOENIG: Wonderful.

10 THE COURT: There will be -- almost at the very
11 bottom of the ECF list will be the directions again for
12 anyone who hasn't done it so far.

13 MR. KOENIG: Yes. And maybe what we'll do is like
14 a notice of, you know, important distribution filings and
15 we'll take the three or four of them and we'll just compile
16 them all in one. That might make it even easier.

17 So of the 11 percent, some of them just haven't
18 completed the KYC process, which is on them. And they
19 should have received instructions on how to do that, or they
20 just haven't typed in their codes. Or they've typed in
21 their codes and they're having some sort of problem. I'm
22 sure you've read those letters, just as we have. We've read
23 them. We've investigated them. I would say all of them
24 that we've reviewed, there appears to be some sort of issue
25 on their end. Haven't actually completed the KYC, they're

1 not actually typing in the code right. We're doing our best
2 to respond to those individual creditors and try to point
3 them in the right direction. But it's challenging.

4 THE COURT: Who do they contact if they haven't
5 been able to successful do this?

6 MR. KOENIG: Right. So there is a ticketing
7 system that is on all of these different FAQs and so on and
8 so forth that you can put in your problem and you can select
9 on a dropdown, I'm having trouble claiming at PayPal. And
10 that will route you to the right people that will get you a
11 quick answer.

12 THE COURT: Okay.

13 MR. KOENIG: And I think that that's very
14 important. And then three percent failed onboarding, which
15 means they've provided their information and they are -- the
16 shorthand is banned by PayPal for whatever reason. They
17 violated their terms of service in the past, and so PayPal
18 doesn't want to service somebody that's scammed them out of
19 a prior distribution. Which, you know, it is what it is.
20 We will migrate those users to Coinbase first if we can.
21 And if they are banned at Coinbase too, we will give them
22 Fiat.

23 Now, the interesting thing here is -- so I talked
24 about the January 16th issue and how we had to set it aside.
25 If we're holding Bitcoin and Ethereum for somebody and it

1 turns out they can't receive it because they fail onboarding
2 or they move to a country that -- we thought they were in
3 California but they're actually in some country that
4 Coinbase doesn't service. The plan provides that we can
5 sell that crypto and give them whatever the proceeds are.
6 Because I actually have the crypto. We have the crypto I
7 should say. So if today we converted somebody that was
8 banned at PayPal to Fiat and you were going to get one
9 Bitcoin, you would get one Bitcoin -- whatever today's
10 prices are. I've seen a lot of letters and a lot of
11 concerns saying Celsius is going to steal the overage. If
12 we have it, we will give it to you. Nobody is stealing
13 anything. Nobody is stealing anything. So that's the
14 PayPal --

15 THE COURT: May I ask this?

16 MR. KOENIG: Yeah.

17 THE COURT: You just provided I think important
18 information. It doesn't appear to affect a very large
19 number of creditors, but it does.

20 MR. KOENIG: yes.

21 THE COURT: Is there a place where they can look
22 and see essentially what you've just said? In other words,
23 if people had elected crypto and you're not currently able
24 to provide it because PayPal or Coinbase won't do it but
25 you're holding the crypto, given the runup in the price

1 since January 16th, it's important. Is there a place they
2 can look and see what you've just said?

3 MR. KOENIG: Yes. And in the notice that we
4 filed, which we will refile. And it is in -- what we've
5 done is we've been trying to improve the process. And I
6 think communications is the area that we worked very hard on
7 this process. I think we were surprised by the overwhelming
8 number of inquiries. In the days after the effective date,
9 we had thousands of inquiries a day and our queue got up to
10 20,000.

11 THE COURT: I haven't received thousands, but as
12 you know, because my clerks have made sure when we've
13 receive inquiries, we've made sure that both the Debtor and
14 the Committee have received copies of it. They may have
15 received it directly, but we've made sure of that.

16 MR. KOENIG: Yes, right. And we've done our best
17 to respond to people as promptly as possible. But we have
18 taken steps to improve our communication strategy and sort
19 of continue to build the airplane out as we're flying it. I
20 mean, we had a very good plan, but there's always ways you
21 can improve the process.

22 And so many letters complained about slow
23 responses of form responses. We pointed people to FAQs and
24 form answers because that works for the vast majority of
25 people. And there are people that have said, boy, why can't

1 you just push my individual distribution through? Well, I
2 do have 15,000 people saying that. And we have tried to
3 triage and focus on common issues and focus on issues that
4 will resolve issues for the most people at once rather than
5 sort of playing whack-a-mole and solving this person's
6 individual issue and then that person's individual issue.
7 So we focused on inquiries that were more time-sensitive and
8 would allow us to get to common answers.

9 THE COURT: So the slide you have on the screen,
10 overall 80 percent of the distributions have successfully
11 occurred so far.

12 MR. KOENIG: Yes. And --

13 THE COURT: Twenty percent still leaves a lot,
14 but...

15 MR. KOENIG: Right. And that includes the Fiat
16 distributions, too. So if it's just the crypto
17 distributions, it's 85 percent total. It's 86 percent at
18 PayPal, 83 percent at Coinbase, and a blended 85. And I'll
19 go through Coinbase in a moment. But just on the
20 communications before I lose the thread.

21 We've been listening to the requests for more
22 detailed and personalized responses. And we've been working
23 to improve our communication strategy to make sure that
24 people get more frequent updates from us. So our goal that
25 we set about a week-and-a-half ago was that every creditor

1 that has not received a distribution should get a new email
2 from us with the status, what do they need to do, what are
3 the next steps. And for some of them it should be, you
4 know, you'll receive a reattempt next week, and for some of
5 them you have a little bit more of a complicated situation,
6 but here is the status.

7 We're almost done with those distributions. We've
8 sent our more than 150,000 emails. And I am pleased to
9 report that in the last week we've made a lot of progress on
10 these numbers. They would have been lower last week. We
11 made quite a bit of progress.

12 But we've developed solutions that will help us
13 respond to creditors quicker. The process is complicated
14 because the company, Celsius, is directing the
15 distributions. But we're not actually making the
16 distributions. Coinbase, PayPal, and our Fiat partners are
17 making the distributions. So we rely on data from them to
18 say, you know, this distribution failed to Chris Koenig for
19 whatever reason. We have to get that data back. And we've
20 been working with them to develop an improved system so that
21 the people making the distribution, Coinbase and PayPal, can
22 give us information in more real time that will allow the
23 people answering the flood of creditor questions more
24 promptly so that we have the latest and greatest technology.
25 But it is complicated.

1 But we've now largely caught up on communications.
2 The outstanding tickets are much lower than they've been in
3 the last few weeks. And just anecdotally in the last three,
4 four, five days, we have seen that number go way down as our
5 new communication strategy rolled out. And as these
6 distribution numbers go up, we have fewer questions because
7 people have fewer outstanding issues. Which is very good.

8 So I talked about PayPal a little bit. Let me
9 talk about Coinbase quickly. And then I have a couple of
10 other quick topics because I know there's a lot of people
11 on the line, and some of them raised some of these topics.

12 So Coinbase doesn't have codes. If you have an
13 account -- if I have an account at Coinbase for Chris Koenig
14 and the KYC matches, because they need to make sure that I'm
15 the same Chris Koenig that is a customer of Celsius -- I
16 won't bore Your Honor with the details, but it is
17 complicated. If I have a fully-KYC'd account with Coinbase
18 and they know that I'm the right Chris Koenig, when Coinbase
19 goes to attempt the distribution, if it worked, I get an
20 email that says congratulations, you just received crypto
21 from Celsius. That's the happy path. That's easy, no
22 problem.

23 If you -- but Coinbase is going to attempt
24 everyone regardless of -- they don't check first to see does
25 Chris Koenig have an account, their system just tries me.

1 And if it works, great. And if not, it comes back with a
2 failure that says Chris Koenig doesn't have a KYC'd account.
3 And I get an email that says, Chris, we just tried you, it
4 didn't work. You know, you need to complete KYC, you need
5 to open an account. Here are links to what you need to do.

6 And so Coinbase first tried these distributions
7 around February 14th, about two weeks after the effective
8 date. And a number of people it worked, and a number of
9 people hadn't set up accounts yet, which I totally
10 understand. Those people initially got a communication
11 because we had understood in that moment that they would
12 never be able to get something from Coinbase. It was more
13 akin to Coinbase has banned you, then you don't have a KYC
14 account. We looked into it because those numbers seemed
15 high to us. And it turned out that it was just a
16 misunderstanding. Those people just didn't have an account.
17 So those people subsequently got an email from us that said
18 that earlier communication was in error, please go and open
19 an account, do the KYC. We will try you again. We will try
20 you on a periodic basis.

21 On Monday, Coinbase ran it again, and a full third
22 of the outstanding accounts had done what they needed to do
23 and had opened an account and had provided Coinbase and we
24 distributed a full third of the outstanding amounts from
25 Coinbase. That number was a little bit over 70 percent

1 literally two days ago. So we are making progress. And
2 similarly here, you see sort of a same percentage. You have
3 of the remaining 17 percent, 13 percent just haven't done
4 the KYC properly and need to do it or need to create an
5 account or something like that. And about four percent, the
6 data that we have suggests that they may not ever be able to
7 meet the KYC because they are on some sort of banned list or
8 whatever the case may be. Those people will be migrated to
9 Fiat. And again, same explanation goes for PayPal. If we
10 have their crypto, we will sell it and we will give them the
11 proceeds, whatever they are at the time. So we've made a
12 lot of progress recently with Coinbase.

13 I had, again, just sort of anecdotally. But as
14 you can imagine, I have a number of phone calls with lawyers
15 and pro se alike these days. And in the last couple of
16 days, I would say half of those calls were cancelled because
17 people said I appreciate your time, but I just got my
18 distribution. Again, it's anecdotal evidence, but I think
19 the data bears it out that the process is working. And I
20 think that we're ahead of the curve. In large retail
21 bankruptcies, it can take quite some time for distributions
22 to go out. And in the other large crypto bankruptcies, it
23 took time, too. In one of them, it took 30 days for them to
24 start the process. 14 days in, we distribute 75 percent of
25 the value and 50 days in we've distributed 85 percent of the

1 value. And, frankly, three-quarters of the remaining value
2 to be distributed, we're waiting on somebody to open an
3 account or complete KYC, and there's only so much that we
4 can do there. People are getting regular communications
5 from us, obviously, to remind them to do those sorts of
6 things.

7 But what I will say to Your Honor is, you know, I
8 want this number to be as high as possible as quick as
9 possible. But it's sort o f the 80/20 rule of 80 percent of
10 the time -- 20 percent of the time is spent on solving the
11 first 80 percent of the problem, but the last problems are
12 the more difficult ones to solve. We've gotten emails from
13 people who are like, I understand, you thought I lived in
14 California. I now live in Botswana. We can help that
15 person, but that's a very manual process and it's going to
16 take a little bit of time.

17 So we are endeavoring to get distributions out to
18 people as quickly as possible, but I don't expect this
19 number to hit 95 percent in a month. It's going to be a
20 little bit slower going. Now that we've solved all the
21 common problems, we're going down to the brass tacks of the
22 difficult, individualized problems.

23 Okay, just a couple of other updates. And I
24 apologize for being long-winded, but I think it's important.

25 So Fiat. Fiat is the third row on this chart.

1 It's U.S. Dollars. So unfortunately, we had to change our
2 bank in February. We were with Flagstar, who had bought
3 Signature Bank. And they unfortunately were running into
4 their own distress. And the irony is not lost on me that in
5 a crypto bankruptcy we are worried more about the security
6 of the U.S. Dollars than of the crypto. I have to say that
7 out loud.

8 So we moved banks because it would be a disaster
9 if our banking partner went under and took our money with
10 it. So we transferred to a new bank successfully, but it
11 took a few weeks to migrate and to get a new corporate
12 account set up and all of the bells and whistles that you
13 need to get the services online that allows us to send
14 checks and wires all over the world. And Fiat is one of the
15 other I would say success stories where we overhauled the
16 process based on initial feedback.

17 So our plan had been to send checks to everybody
18 eligible to receive Fiat, which is very inexpensive, it's
19 very simple, and it works. But 45 percent of our creditors
20 live outside the United States. And when we sent
21 communications right after the effective date saying we're
22 going to send you a check, please update your address if
23 you've moved recently, people said, whoa, whoa, whoa, I live
24 in a country where the post doesn't get delivered regularly,
25 the post is corrupt, people steal checks, my bank won't

1 deposit a U.S. Dollar check. You need another solution.

2 So we used the timing delay to our advantage from
3 moving banks and we overhauled the system. Anybody with a
4 claim of at least a thousand dollars can get a wire transfer
5 for this, which should solve the problem for the
6 international people. Eligible creditors should receive a
7 communication by the end of the week asking for wire
8 transfer instructions. We've asked for quite a few of them
9 already. We just keep going out to more and more people as
10 we hear of this issue.

11 THE COURT: How are you dealing with potential
12 security issues regarding wire transfers to ensure that
13 these are the proper accounts?

14 MR. KOENIG: For sure. I mean, there is as you
15 can imagine a validation and security process that I am not
16 equipped to go through in detail. But rest assured that our
17 banking partner does this for a living and the company does
18 this for a living.

19 THE COURT: And your banking partner is who now?

20 MR. KOENIG: Pardon?

21 THE COURT: Who is the current banking partner?

22 MR. KOENIG: Oh my god. It's totally blanking on
23 me. I'll get it when I sit back down. But it's a
24 significant bank. I'm just totally blanking on it. But we
25 are confident in the process. Frankly, the biggest problem

1 we've had is getting people to send us the right
2 information. Because we can only complete a wire transfer
3 if they fill out the form correctly.

4 THE COURT: You need a routing number.

5 MR. KOENIG: And some of these creditors don't
6 speak English as a principal language, which is totally
7 understandable. But we'll get back a wire transfer form that
8 has their name and their address, and we need the name of
9 the bank.

10 THE COURT: Have you prepared wire transfer
11 instructions --

12 MR. KOENIG: Yes.

13 THE COURT: And has that been distributed to all
14 of these people?

15 MR. KOENIG: Yes. And we've continued to update
16 the form to make it even more clear over time as the first
17 round of it. You know, we would say bank's address, and
18 people would put their own address. And so the second time
19 we go through and we say, no, we really need the bank
20 address, not your address and make it as crystal clear as
21 possible for people.

22 So as I said, by the end of the week, anybody over
23 a thousand dollars will be contacted us and have the
24 opportunity to receive a wire. And even for those under a
25 thousand dollars. If you tell us you can't receive a check,

1 we'll work to get you a wire. And those people are going to
2 get a communication from us by the end of the week saying we
3 will send you a check, here's where you can update your
4 address. And if you tell us affirmatively that you can't
5 receive a check, we will give you a wire, too. And so by
6 the end of next week, we will have attempted all wires where
7 creditors gave us correct and complete wire instructions as
8 of yesterday and we'll just ramp up from there. Okay. That
9 is the update on Fiat.

10 So again, Fiat is a little bit behind the
11 eightball as you can see from the numbers just because the
12 banking delay, number one. And we overhauled the system to
13 make sure that people that were receiving Fiat could
14 actually deposit it. Because I don't want to send a check
15 to somebody and they can't deposit it, we have to cancel the
16 check and it's a whole thing. All right.

17 One of the other areas of concern has been from
18 corporate creditors, as Your Honor may have read in some of
19 the letters. Unfortunately, our agreement with Coinbase
20 only allows us to distribute to 100 corporate creditors.
21 Those are corporations, LLCs, trusts, and other non-
22 individual entities. So if there was an LLC and the account
23 was in the name of the LLC rather than the individual
24 person. They are I'll call them a corporate creditor.

25 The universe here is small but significant. Just

1 for Your Honor's edification, there's about 1,800 corporate
2 creditors. They have a total of \$78 million in claims.
3 Those are --

4 THE COURT: Give me that number again. How many?

5 MR. KOENIG: 1,800 corporate creditors with a
6 total of \$78 million in claims. Now, those are big numbers.
7 But in the scope of Celsius, remember that we have about
8 400,000 creditors with claims big enough to receive a
9 distribution, and they have about \$5 billion in claims. So
10 it's about a half a percent by number and a little bit more
11 than one percent by dollar amount.

12 Corporate creditors are a challenge to KYC and to
13 distribute to. For you and me, Your Honor, individuals, if
14 I want to sign up with Coinbase, I give them my driver's
15 license, I give them my Social Security number. Coinbase
16 has a vendor that they run through and they go, yeah, this
17 person is who he says he is. He's not on the banned list,
18 he's not a Russian oligarch, good to go.

19 If the corporate creditor is I Love Crypto, LLC,
20 how do you figure out who that person is? A lawyer has to
21 read the LLC agreement. Right? And that structure may be
22 several levels up and you need to make sure that the
23 ultimate beneficiary is not a Russian oligarch. And so we
24 negotiated this point --

25 THE COURT: Just so the record is clear, you've

1 reference several times Russia. There is a regime in place
2 that prevents distributions to certain categories of
3 creditors.

4 MR. KOENIG: Thank you, Your Honor. Federal rules
5 and regulations that prevent us from sending money to
6 certain recipients who are affiliated with terrorist
7 organizations or regimes that the U.S. Government --

8 THE COURT: The sanctions regime in effect with
9 respect to Russia currently in effect restricts any
10 distributions to a fairly broad swatch of individuals or
11 entities.

12 MR. KOENIG: And that is one of the points of the
13 KYC AML process.

14 THE COURT: Okay. Just so that everybody
15 understands why in part such care has to be taken. Indeed,
16 I have another case where about \$8 million is frozen in New
17 York because it can't be returned to Russia because the
18 creditors include sanctioned parties.

19 MR. KOENIG: Interesting.

20 THE COURT: This is not a Celsius-specific
21 problem, it's a more general problem because of the
22 sanctions regime in effect. Go ahead.

23 MR. KOENIG: So again, if the creditor is an LLC,
24 a lawyer has to read the LLC agreement and then you have to
25 figure out who the ultimate beneficiaries are. And that's a

1 complicated and expensive process. It was one of the
2 harder-fought negotiations that we had with distribution
3 agents because we have 1,800 creditors and we want to
4 distribute crypto to as many of them as possible. We landed
5 on 100 corporate creditors. For better or for worse, that
6 was the best that we could do. And there was a point in
7 time where we thought we were going to get zero. And there
8 are 1,800 people. And --

9 THE COURT: How are you going to deal with the
10 other 1,700?

11 MR. KOENIG: They are getting Fiat. And that is
12 the only thing that we can do.

13 So the plan and the disclosure statement said if
14 you cannot get cryptocurrency for any reason, including
15 because there is not a distribution agent that can send to
16 you in a fully regulatory compliant way, you will get U.S.
17 Dollars. And so we're sort of back to the conversation that
18 I had at the beginning of my presentation where if you were
19 outside of the top 100, we reserved for you Fiat because we
20 did not have a slot for you as of the effective date. And
21 I've read the letters of people that, you know, they wish
22 that we had done some other process to select. What we did
23 was we wanted to make the most out of those 100 slots. And
24 there's any number of ways you could have done it. We
25 looked at the data, and of the 1,800 creditors, half of

1 them, 900 have less than \$5,000 in claims. Those are
2 relatively small in this case. Those 900 people
3 collectively have about \$1 million of claims. That's -- and
4 again, \$78 million in claims total.

5 So I've seen the question, oh, the Debtors should
6 have run a lottery. Well, if we had run a lottery and we
7 had used one of the 100 slots on somebody who was entitled
8 to receive \$25, that doesn't seem like a very good use of
9 limited resources.

10 So what we did is we went out to the top 250
11 creditors by size and said do you want cryptocurrency or do
12 you not care. This was in January. And we said if you were
13 indifferent, please let us use the slot on somebody who
14 really cares. And there were creditors that said I don't
15 care, send cash. Those creditors may be kicking themselves
16 now with the run-up in prices, but it is what it is.

17 But it shows that as of January 16th, nobody
18 should have cared. It was --

19 THE COURT: They may have gotten their money and
20 reinvested it in Bitcoin.

21 MR. KOENIG: Yeah, exactly. They could have done
22 that. But, you know, I understand -- same as I understand
23 the frustration of the people that live in countries all
24 over the world that we can't distribute crypto to. They see
25 people that are getting more in their mind. But we are

1 giving them what the plan requires. And I'll stand behind
2 our process as the process that we believed was going to get
3 the most use out of limited resources and to get the most
4 amount of crypto to the most amount of creditors. And it's
5 complicated and it's frustrating I'm sure, but that is what
6 it is. And so there's corporate creditors that are saying,
7 well, you should make me whole for the runup in crypto
8 prices. I sold their crypto on January 16th, and the price
9 has gone up. We can give them the Fiat, but it is what it
10 is. Okay.

11 CLERK: Sorry, Judge. We have a raised hand.

12 THE COURT: Not yet, Deanna.

13 MR. KOENIG: I'm almost done, Your Honor.

14 The convenience class, that is the subject of this
15 morning's motion, so I'll table that. And then on the
16 loans, Your Honor may recall that we had an option for
17 borrowers to sort of refinance the principal balance of
18 their loans. The main reason was tax treatment for those
19 individuals. We had about 350 individuals that elected that
20 treatment. We've been working with the lenders to refinance
21 them. We closed our first cohort, a small cohort, but it
22 was a large dollar amount actually with about six or seven
23 creditors last week. And we are doing about another hundred
24 this week. And again, there's like 350 that initially
25 elected it, and some of those people have fallen away and

1 have decided that they don't want to do that after all. So
2 we'll give them their normal distributions.

3 Your Honor, I have been speaking for quite a
4 while. There have been quite a few letters. Is there
5 anything that -- oh, you wanted me to address the MiningCo
6 stock. Those discussions remain ongoing. It's difficult
7 for me to speak to it because that process is confidential
8 with the SEC. But Your Honor and the other parties should
9 rest assured that I do not represent the MiningCo, I
10 represent Celsius. But for my understanding, those
11 conversations are ongoing and I am hesitant to characterize
12 them for fear of breaching confidentiality. But there has
13 not been a development that is -- you know, the SEC has not
14 denied the application, nor has it granted it. Those
15 conversations remain ongoing, which, frankly, is what we
16 have expected.

17 I've been speaking for a while. Is there anything
18 Your Honor was hoping I would address before I get to the
19 motion?

20 THE COURT: No.

21 MR. KOENIG: Thank you, Your Honor.

22 THE COURT: Well, let me -- before you get to the
23 motion, I am going to allow creditors who wish to be heard
24 to speak. Just so we are clear about this process, my
25 courtroom deputy, who is not in the courtroom, she is able

1 to see raised hands on her computer. And she will try and
2 do this in the order in which hands are raised to identify
3 people. I ask you to keep your comments brief if possible.
4 But I do want to hear what you have to say.

5 Deanna, can you indicate the first person to be
6 heard?

7 CLERK: Yes. We have Laura McNeil.

8 THE COURT: All right. Ms. McNeil?

9 MS. MCNEIL: Hi, Your Honor. Thank you for
10 allowing me to speak today. My name is Laura McNeil, and
11 this is the first court hearing I've attended, participated
12 in.

13 I've been following the bankruptcy court updates
14 all along wherein I've waited patiently throughout this
15 process. But I now feel like it's time to speak up.

16 I am here with two other creditors today, Wesley
17 Chang and Riece Keck. And we are representing a group of
18 over 80 corporate creditors found and connected with in a
19 very short amount of time over various social media
20 channels. Together, we wrote a letter with all of our names
21 and we submitted this to the Court on Monday. We encourage
22 you to read Docket Number 4719, as it outlines the great
23 inequity we are all experiencing in regards to receiving USD
24 distributions.

25 The majority of the corporate creditors we

1 represent have retirement accounts, family trusts, wills,
2 and non-conventional corporate accounts aimed at
3 safeguarding our financial futures.

4 I personally manage nine accounts. Seven of these
5 are corporate accounts that are all self-directed IRAs which
6 are sole-operator LLCs with retirement funds. Four of these
7 accounts are for my parents' IRAs and contain their entire
8 life savings, which they have not had access to for well
9 over a year-and-a-half, largely affecting their retirement
10 and their livelihood. This has severely affected all of our
11 mental health, not knowing when, if, or how much of our
12 funds we get back. My parents worked hard for decades and
13 they put their entire net worth into these tax-sheltered
14 accounts with Celsius under the false pretenses their funds
15 would be safe.

16 The reason I am speaking to you today is to bring
17 to your attention how corporate creditors are not getting
18 equitable treatment with their distributions. The Debtor
19 selected only a hundred corporate accounts, as you heard
20 earlier, to receive their distribution through
21 cryptocurrency with Coinbase. And the other accounts were
22 told they were to receive U.S. Dollar distributions based on
23 January 16th crypto prices. However, it's been over two
24 months and most of us are still waiting to receive any
25 distribution.

1 In Chris Koenig's opening statement, he said we
2 could do what we wanted with these funds. But most of us
3 have still not even received these funds.

4 Since then, Bitcoin has gone up about 60 percent
5 and Ethereum has gone up about 40 percent in price. This is
6 a huge discrepancy from the January 16th prices. Selecting
7 100 accounts mean that those accounts got preferential
8 treatment. The debtor had a fiduciary responsibility to be
9 equitable and they breached this duty. We feel the Debtors
10 were negligent in not trying to find a distribution partner
11 to service all corporate accounts equally.

12 In Kirkland & Ellis's recent docket, filing number
13 4623, (indiscernible) that accounts are unable to receive
14 cryptocurrency distributions, and all of selected that
15 option. The Debtors could sell the liquid cryptocurrency
16 and the creditor will receive liquid cryptocurrency at
17 prevailing market price as close to the expected date of the
18 cash distribution as possible. If we as corporate creditors
19 are to be compensated with U.S. Dollars, we should also be
20 able to receive these distributions at prevailing market
21 prices as close as possible to our distribution. To pay us
22 at significantly lower January 16th crypto prices and have
23 us wait over two months is another example of how this
24 process has been inequitable. Our crypto should have never
25 been sold. However, if the Debtors were going to liquidate

1 assets, they should have had a viable banking partner able
2 to distribute these funds as close as possible to when they
3 were sold as they specify they are doing for other
4 creditors. This is yet another example of how these
5 distributions have not been equitable across creditors. Why
6 should corporate creditors, including my parents, be treated
7 differently than any other creditor? As the U.S. justice
8 system (indiscernible), people are to be treated
9 impartially, fairly, equally, and reasonably by the law.

10 Your Honor, on behalf of myself, my parents, and a
11 growing list of over 80 corporate creditors we have
12 connected with, we are asking that you rule that was not an
13 equitable solution for corporate creditors.

14 In Chris Koenig's opening statement, he said if we
15 have it, we will give it to you. Well, we understand that
16 Kirkland & Ellis has retained \$165 million to use to remedy
17 (indiscernible) such as this. And we kindly request you
18 order these distributions to be made equitably so all
19 creditors are treated fair and equal as required by law.

20 Specifically we are requesting the Court to order
21 distributions be made in cryptocurrency. And where this is
22 not possible, corporate accountholders should receive U.S.
23 Dollars at current prevailing market cryptocurrency prices
24 as close as possible to when they are sold to match
25 treatment of other creditors receiving U.S. Dollars.

1 For the few corporate accounts that have already
2 received U.S. Dollar distributions, we ask that they be made
3 whole based on the prevailing market rate when they received
4 their distributions just as Kirkland & Ellis have stated
5 other creditors will receive. These requests will ensure
6 all creditors are treated fair and equal.

7 Your Honor, thank you for your time and your
8 consideration.

9 THE COURT: All right, thank you. I haven't read
10 your filing, ECF 4719. I would ask that the Debtors respond
11 in writing to it on ECF and I'll determine how to take it
12 up.

13 MR. KOENIG: Understand. We will do so.

14 THE COURT: All right. Thank you, Mr. McNeil.

15 All right, Deanna, who is next?

16 CLERK: We have Wesley Chang, I believe. Wesley,
17 can you unmute?

18 MR. CHANG: Yes, hello. Thank you, Your Honor,
19 for giving us the opportunity to speak. I don't know if
20 you're able to see me on the screen.

21 THE COURT: I can't see you on the screen. I can
22 see your name on the screen. Go ahead, Mr. Chang.

23 MR. CHANG: Okay, all right. Yes, again, my name
24 is Wesley Chang. I am a (indiscernible) creditor who owns
25 (indiscernible) Earn, Loan, and corporate accounts with

1 Celsius.

2 Mr. Koenig earlier spoke about doing their best to
3 ensure equitable distribution. And I am here to
4 resoundingly dispute that claim as well as other claims that
5 he has made this morning.

6 The Debtors could not secure a distribution
7 partner. Financial issues with their banking partners,
8 logistics, complexities, miscalculation of distribution.
9 This is all documented through the dockets that were
10 submitted by all the creditors. So I just don't feel that
11 Debtors have much credibility.

12 As you heard from Ms. McNeil and as you'll hear
13 from Mr. Keck, we are here to represent all corporate
14 creditors who have been informed that we will not be getting
15 distribution in the form of cryptocurrency as we have all
16 requested.

17 According to the Docket 4623 by Kirkland & Ellis
18 on March 13th, the reason for the Debtor's inability to
19 distribute currently to corporate creditors was due to an
20 onboarding process and compliance requirement being
21 significantly more demanding for corporate creditors. And
22 we spoke about that earlier. I understand. But as Mr.
23 Koenig spoke about the AML and KYC compliance, we were all
24 subject to KYC process through Celsius even after the
25 bankruptcy effective date. But the Debtors still took it

1 upon themselves to involve a third party distributor, which
2 obviously added more complexity to the distribution process,
3 which is where we are now a month later. We still haven't
4 gotten anything. And as a result, they were allowed to
5 enter into an agreement that limited equitable distribution
6 for those outside of top 100 accounts.

7 Docket 4220, again, filed by Kirkland & Ellis back
8 on January 11th stipulated that if you are not eligible to
9 receive a distribution in cryptocurrency due to your
10 particular circumstances, we will receive -- you will
11 receive distribution in U.S. Dollars.

12 (indiscernible) this was a huge miscalculation on
13 the Debtor's part and there should be no practical reason
14 for those corporate creditors who selected cryptocurrency as
15 the form of payment to receive cash distribution. We feel
16 that this is a clear failing on the Debtor's commitment to
17 ensure equitable distribution.

18 The topic of equitable distribution naturally took
19 the front stage due to the spike in Bitcoin and Ethereum
20 prices as of recent. But such headline could have been
21 avoided had the Debtors at their own discretion, again,
22 could have exercised fair and equitable judgement by
23 committing (indiscernible) deficiency.

24 And Docket 4319, filed on February 15th, the
25 Debtor state U.S. Dollar distribution will be distributed as

1 soon as reasonably possible after the effective date of the
2 plan. Due to what Debtors classified as a logistical
3 complexity, as soon as reasonably possible didn't
4 materialize. So even if for some reason distribution must
5 be made in cash, we ask the Court to establish a rule that
6 cash wire transfer distributions be made within five
7 business days from the new effective date that should be
8 established, or cash value at the time of distribution be
9 within five percent of the Bitcoin and Ethereum value. We
10 have to have that type of rule to be (indiscernible).
11 Otherwise, we'll be back in the court arguing this point.

12 So in closing, I want to reiterate Ms. McNeil
13 briefly -- what she touched on earlier. The corporate
14 accounts are mostly owned by single-member LLCs with IRA and
15 retirement funds of her parents and her relatives. And that
16 is -- and that goes for most of the corporate creditors,
17 including mine.

18 So we ask Your Honor to be fair in your
19 (indiscernible) and consideration of those who really need a
20 fair treatment. Your Honor, please have mercy on all of us
21 and grant us the equitable distribution we all deserve.
22 Thank you for your time.

23 THE COURT: Thank you, Mr. Chang.

24 Let me hear next -- Deanna, who is next?

25 CLERK: We have Riece Keck.

1 THE COURT: All right.

2 CLERK: Apologies if I got the wrong name.

3 THE COURT: Thank you. Mr. Keck, go ahead.

4 MR. KECK: Hello, Your Honor. My name is Riece
5 Keck and I am a corporate creditor based here in the United
6 States. For context, I have a claim with Celsius of
7 approximately \$305,000.

8 I am here today to raise concerns about the
9 inequitable treatment of corporate creditors in the Celsius
10 bankruptcy case. I am for context one of those who is
11 scheduled to receive distributions in U.S. Dollars.
12 Although I did originally request cryptocurrency, I was
13 initially somewhat indifferent due to the similar Bitcoin
14 prices on January 16th and the effective date.

15 However, the significant delay in receiving funds
16 and the recent appreciation of Bitcoin and Ethereum have
17 materially impacted my distribution. If paid in
18 cryptocurrency, my claim would currently be worth
19 approximately \$82,000 more than the U.S. distribution at
20 current prices.

21 There are three primary issues that I want to
22 raise with treatment of corporate creditors. First, as
23 we've discussed, is that only 100 corporate creditors could
24 receive cryptocurrency while the rest receive U.S. Dollars.

25 Now, I fully understand the reasoning for picking

1 U.S. Dollars, as Mr. Koenig mentioned, in the instance of
2 regulatory or compliance issues. However, increased
3 administrative burden is not a valid reason for unequal
4 treatment. Debtors should have found an additional
5 distribution partner capable of handling the (indiscernible)
6 corporate creditors.

7 Secondly, as Mr. Koenig mentioned, the funds were
8 liquidated on January 16th. However, this was done without
9 a proper banking partner in place, which has caused delays
10 and prevented creditors from benefiting from recent
11 cryptocurrency appreciation. And as Mr. Koenig mentioned,
12 only 18 percent of wires have gone out.

13 Your Honor briefly mentioned earlier that those
14 corporate creditors could have reinvested, which I actually
15 did intend to do, as I anticipated a wire shortly after the
16 effective date. However, as of today, I still have yet to
17 receive anything. So had things gone out on time, I could
18 have done that. But the Debtors failed to accommodate that.

19 And then third, individual creditors who are
20 unable to receive cryptocurrency through Coinbase and PayPal
21 are assured that their crypto will be sold at current prices
22 while corporate creditors are not afforded the same
23 treatment.

24 So, Your Honor, I believe these issues violate
25 fundamental principles of bankruptcy law. First, in unfair

1 discrimination, and I believe the Debtors have unfairly
2 discriminated against similarly-situated creditors by
3 treating corporate creditors differently.

4 Secondly, breach of fiduciary duty. The Debtors
5 breached their fiduciary duties by failing to secure a
6 distribution partner capable of servicing all corporate
7 accounts equitably.

8 Third, inconsistent treatment. The Debtor's own
9 statements indicate that creditors unable to receive
10 cryptocurrency, individual creditors, will receive proceeds
11 at prevailing market prices, but corporate creditors are
12 forced to accept outdated prices.

13 And fourth, unnecessary liquidation. The Debtors
14 should not have liquidated cryptocurrency assets prematurely
15 without a viable banking partner, which has caused harm to
16 corporate creditors.

17 Now, I understand that those distributions -- or
18 those assets were sold on January 16th. However, as a
19 previous creditor mentioned, Kirkland & Ellis has withheld
20 back \$165 million to ensure equal and fair treatment of all
21 creditors. And I ask that you rule fairly to those of us
22 who have been unable to receive cryptocurrency. Thank you
23 for your time.

24 THE COURT: Thank you. Deanna, next?

25 CLERK: Next is George Stanbury.

1 THE COURT: All right. Mr. Stanbury?

2 MR. STANBURY: Good morning, Your Honor. Thank
3 you very much for all of your patience and effort in this
4 (indiscernible). I have simply two questions to ask. The
5 first, how did you value (indiscernible) value our U.S.
6 Dollar (indiscernible) for purposes of the distribution.

7 And my second question is since any distribution
8 (indiscernible) upon receiving a distribution
9 (indiscernible), why didn't I and others ever receive the
10 distribution letter?

11 THE COURT: I'm sorry, Mr. Stanbury, I'm not sure
12 I understood your point.

13 MR. KOENIG: Your Honor, I think I heard the
14 second point, which was --

15 THE COURT: You have to identify yourself.

16 MR. KOENIG: I'm sorry. Chris Koenig from
17 Kirkland for Celsius.

18 I think what Mr. Stanbury said was he has not
19 received a PayPal code yet. And he was asking why.

20 Mr. Stanbury, if you -- we'll refile on the docket
21 tonight the FAQ with all of the different emails and
22 ticketing systems. But if you email me, my email is on all
23 of Celsius' filings, Chris.Koenig@Kirkland.com. If you
24 email me your question, we will come back to you promptly.
25 And of course you are free to address the judge. But if

1 your question is why haven't I received my code yet, I
2 standing here don't know that, and I would have to check my
3 records.

4 THE COURT: Go ahead, Mr. Stanbury, if you want to
5 say anything else.

6 MR. STANBURY: The first question was how did you
7 value the price or the value of an alt coin such as
8 (indiscernible) for purposes of distribution.

9 MR. KOENIG: Right. So what happened, Mr.
10 Stanbury, is there was a table --

11 THE COURT: And it's Mr. Koenig who is speaking.
12 Go ahead.

13 MR. KOENIG: I'm sorry. Mr. Koenig speaking to
14 Mr. Stanbury.

15 Mr. Stanbury, the plan provided for a table that
16 would be set for a conversion of different types of
17 cryptocurrency into each other. But if you had a claim for
18 ADA, that claim was set on the petition date pursuant to the
19 Bankruptcy Code. And so whatever the price of ADA was on
20 that date is the claim that you have. And then we
21 distributed to you Bitcoin and Ethereum at prices that were
22 as of January 16th. So if your question is what was the
23 price of ADA, the price of ADA was the price that you had in
24 your account. That's your claim against Celsius. That was
25 set on the petition date of July 13th, 2022. And then you

1 got Bitcoin and Ethereum that -- let's just say that the
2 value of your account as of July 13th, 2022 was \$10,000.
3 The plan provided that you would get Bitcoin and Ethereum
4 valued as of January 16th, 2024. And it's about 57, 58
5 percent as the initial distribution. So if you have a
6 \$10,000 claim, you've got Bitcoin and Ethereum that as of
7 January 16 was worth \$57,000 or \$58,000. And then what the
8 Bitcoin and Ethereum was worth sort of goes up and down with
9 the market.

10 Does that help answer your question?

11 MR. STANBURY: Yes, thank you.

12 MR. KOENIG: You're very welcome. If you have
13 anything else, as I said, please email me.

14 THE COURT: All right. Deanna, next?

15 CLERK: Christian Funck.

16 THE COURT: I'm sorry, say it again, Deanna?

17 CLERK: The name is Christian Funck, F-u-n-c-k.

18 MR. FUNCK: Yes, hello. Can you hear me?

19 THE COURT: Yes, I can. Go ahead, Mr. Funck.

20 MR. FUNCK: Your Honor, thank you for your time.

21 I'm calling out of Europe. I am calling from one of the
22 creditor class, the Borrow class. And we sent a letter
23 yesterday, and it's about the unfair discrimination between
24 the actual creditor class, but also within the actual credit
25 class itself.

1 In our case, in the Borrow class, it was mentioned
2 by Mr. Koenig that refinancing is only for tax reasons.
3 That is not correct. Many people are refinancing because
4 they actually cannot pay back the loan themselves but they
5 don't want to lose their crypto. But the situation is as
6 follows. Some within the credit class or the Borrow class,
7 they have been able to pay off the loan or settle the loan
8 (indiscernible) prices whilst we that want to refinance, our
9 loans cannot (indiscernible) prices (indiscernible) have to
10 do it at market prices. And at the moment that would give
11 us around, you know, almost half of the amount of coins back
12 than other people in our same class that's been able to
13 receive.

14 Therefore, we think that it's unfair
15 discrimination and we would like to (indiscernible) funds
16 set aside to remedy that or to at least (indiscernible)
17 refinance (indiscernible) excess effective date pricing just
18 like all the others.

19 And finally, if you allow me to comment, also what
20 we try to understand is that our assets have in the meantime
21 since the petition date (indiscernible) almost risen by 370
22 percent. The question is where does that upside get to or
23 go to.

24 Thank you for your time.

25 THE COURT: Thank you.

1 MR. KOENIG: Your Honor, I'm happy to address --
2 Chris Koenig, Kirkland.

3 So what Mr. Funck is talking about is under the
4 plan, borrowers had three options. The default option was
5 setoff. That means that they no longer owe the loan to
6 Celsius. It is forgiven. And in exchange, we will reduce
7 the collateral that we were holding for them in an equal
8 amount. So they get a hundred percent recovery because they
9 owed us -- if they had a million dollar loan, they owed us a
10 million dollars, and we are forgiving that loan. And in
11 exchange, we will reduce their account effectively by a
12 million dollars.

13 That is the default treatment, and that is the
14 treatment that overwhelming borrowers selected because that
15 was the simple treatment and that's what made the most
16 sense.

17 Your Honor ruled as part of confirmation the
18 collateral belongs to Celsius. It does not belong to the
19 borrowers. And the borrowers had a claim, an unsecured
20 claim for the difference. They had a setoff right, and then
21 they had a claim for the difference. And what we did to
22 accommodate borrowers who had a negative tax consequence is
23 setoff is a taxable transaction. If they repaid their loan
24 and got their collateral back, that would not be a taxable
25 transaction. So what we did in the plan was we allowed them

1 to repay their loan if they wanted. They would not get all
2 of the collateral back, because Your Honor ruled it didn't
3 belong. But what we would do is they could buy a like
4 amount of their collateral back. So if they had a million
5 dollar loan, they had three million dollars of collateral.
6 They could repay the million dollars. We would give them
7 their collateral back in an equal amount. A million dollars
8 of Bitcoin or Ethereum or whatever it was, and that will
9 help their tax treatment. I mean, I'm not giving tax
10 advice, but we think that that should hopefully help their
11 tax treatment. But it's at then-prevailing market prices.
12 It was going to be neutral to the estate. And if they
13 preferred it, we were happy to facilitate it. So there were
14 to options. If you could -- if you didn't need to refinance
15 your loan because you could come up with a million dollars,
16 we had a process that before the effective date there was a
17 week-long period where you sent in a wire and we sent you
18 back your equivalent amount of Bitcoin or Ethereum.

19 So I'm using rough numbers. But if you did that,
20 you bought Bitcoin at \$43,000. The plan also provided that
21 if you didn't have the cash and wanted to finance the cash
22 through a third-party lender -- not Celsius -- the Debtors
23 would work -- I think the plan says commercially-reasonable
24 efforts to work with the lenders after the effective date to
25 come up with a refinancing. That process is complicated.

1 The borrower has to negotiate with the lender, has to sign
2 documents, has to sign documents with us directing us to
3 give their distribution to the lender, who has a new loan.

4 So a borrower could take out a new million-dollar
5 loan with, you know, lender. Lender sends us the money, we
6 send a million dollars of Bitcoin or Ethereum to lender as
7 well as the post-setoff amount to which the borrower is
8 entitled for the overage, the difference between the \$3
9 million in collateral and the \$1 million loan. And then we
10 have no further relationship with the borrower. The
11 borrower has a new relationship with the lender and has to
12 pay a million dollars to the lender to get that million
13 dollars in collateral plus the claim on the two million
14 dollar delta.

15 So what Mr. Funck is arguing is he wishes that he
16 could have bought Bitcoin at \$43,000. And it has taken time
17 for us to refinance because it is a complicated process.
18 And he wishes that he could have bought Bitcoin at \$43,000
19 like everybody else. And that is -- I mean, the plan has
20 provided that it is going to be at prevailing market prices
21 so that it is net-neutral to the estate and to other
22 creditors. Allowing Mr. Funck to buy bitcoin now at \$43,000
23 when the market price of Bitcoin is \$65,000 I would argue is
24 inequitable, and anybody should make that choice. But I
25 shouldn't advocate, but that is his argument.

1 THE COURT: All right. Here's what I would like
2 you to do, Mr. Koenig. We can order the transcript after
3 this hearing. Rather than have separate filings as to each
4 of the questions you've gotten, you can do a single filing.
5 I think you ought to try as best you can to address these
6 issues. I think I understand.

7 MR. KOENIG: Okay.

8 THE COURT: Thank you, Mr. Funck.

9 Deanna, who is next?

10 CLERK: We have Mark Casey Miller.

11 THE COURT: All right, Mr. Miller, go ahead.

12 MR. MILLER: Good morning, Your Honor, Mr. Koenig.
13 Thank you guys for your time this morning.

14 I am one of the individual creditors in the
15 Celsius distributions. I was -- I am a U.S. resident here
16 out of Tennessee set to receive my crypto via PayPal/Venmo.
17 I am one of the ones -- I'm kind of representing a group of
18 about 60 of us that are in the same predicament that though
19 we have -- I've had a PayPal account for 21 years. I've
20 been an excellent PayPal customer. Verified KYC. Attempted
21 to claim codes, got an error, some process error on the back
22 end. PayPal said I'm a hundred percent perfectly fine, KYC.
23 Codes don't work. But then I got the email a day later
24 saying important, your claim cannot be distributed by PayPal
25 or Venmo, please wait for further instructions.

1 Well, it's been about 36 days now and we haven't
2 received any information since then other than we had a
3 docket update -- I believe Docket Number 4623 that was filed
4 on the March 14th. Did notate it had a blurb in the bottom
5 that notated as a reminder if for any reason neither PayPal
6 nor Venmo can service your claim distribution, you will be
7 notified that your distribution cannot be serviced through
8 PayPal or Venmo and the post-effective date debtors will
9 attempt to make your distribution via Coinbase.

10 So we are at this stage now that we have not
11 received any official information outside of seeing this in
12 this docket five days ago. So I've submitted multiple
13 tickets to Stretto along with the other ones in this
14 predicament. We all have gotten the same copy and pasted
15 response, which doesn't give us any new information. And
16 we've even tried to reach out to Celsius before they shut
17 down the 29th to verify, okay, do we have our stuff in place
18 to receive our Coinbase distributions. And we've noticed
19 now that you -- now that the Debtors are starting to make
20 attempts to distribute Coinbase, the second attempts for the
21 Coinbase users with KYC issues, we're wondering are those of
22 us that are unable to be serviced by PayPal that are being
23 moved to Coinbase, when are we going to start seeing our
24 distribution attempts through Coinbase since we are being
25 moved to another distribution agent?

1 THE COURT: Thank you, Mr. Miller.

2 MR. MILLER: And we're kind of just -- yeah.

3 MR. KOENIG: Mr. Miller, it's Chris Koenig. I
4 understand the question entirely and I have what I hope is a
5 helpful response.

6 So we are in the process of migrating the people
7 that can't get distributions from PayPal to Coinbase,
8 Coinbase is going to be reattempting distributions I would
9 say every two weeks. And our plan is to migrate people
10 PayPal to Coinbase on the off week. So I would hope in the
11 next couple of weeks you're going to get your distribution
12 through Coinbase. That would be my expectation. I mean, I
13 haven't looked at your particular claim. I don't know your
14 particular situation. But that is our plan for banned users
15 from PayPal generally, is we're going to be moving them to
16 Coinbase promptly in the next couple of weeks. And I hope
17 you get your distribution soon.

18 THE COURT: Deanna, next.

19 CLERK: Artur Abreu, A-r-t-u-r is the first name.

20 THE COURT: All right. Mr. Abreu, go ahead.

21 MR. ABREU: Pro se creditor. Can you hear me?

22 THE COURT: Go ahead.

23 MR. ABREU: Can you hear me?

24 THE COURT: Yes, we can hear you fine.

25 MR. ABREU: Okay. So I just wanted to add my

1 personal experience to the matters that Chris Koenig was
2 mentioning about distributions. I have two other family
3 creditors who were successful and a third. We are
4 international, so we are doing the KYC on the Coinbase side.

5 So this third family member was required to
6 provide a source of income. And I -- we cannot provide this
7 because it's (indiscernible) retirement. But I just wanted
8 to highlight that the claim here is still under \$5,000. So
9 I'm kind of frustrated because I'm trying to -- I already
10 sent back (indiscernible) even the mortgage, and we still
11 are having issues. So I just want to highlight for the
12 Court that some issues with KYC is also -- is coming from
13 the Coinbase side because they are trying to have a source
14 of fund. And in this particular case, there is no -- there
15 is no future -- and this family member doesn't intend to
16 keep on Coinbase. Just wants to sell and rescue all the
17 funds here. So I just want to highlight this.

18 I know the judge usually just have (indiscernible)
19 pro se creditors about the motion about the (indiscernible)
20 Earn creditors that were (indiscernible) and was not given
21 time. Many creditors contacted me. I think --

22 THE COURT: Mr. Abreu, we have a separate motion
23 on the docket.

24 MR. ABREU: Okay.

25 THE COURT: That hope -- today, today that --

1 MR. ABREU: Yeah, yeah, yeah.

2 THE COURT: -- to deal with this issue about the
3 convenience class. So we'll take that up when we finish
4 this portion of the hearing.

5 MR. ABREU: Okay. Thank you, Judge. I just
6 wanted to bring that issue (indiscernible). Thank you.

7 THE COURT: Thank you. All right, Deanna, next.

8 CLERK: Rebecca Gallagher.

9 THE COURT: Ms. Gallagher, go ahead.

10 MS. GALLAGHER: Yes, Your Honor. I am in the
11 situation where I have received my Ethereum code and claimed
12 it on PayPal but still have not received a BTC code. So I
13 would like someone to assure me today that the code is
14 coming and I will get those 2.069 BTC. And then I can wait
15 patiently. But the thought that I might not be getting the
16 code at all is really very, very distressing.

17 THE COURT: All right. Let's see. Mr. Koenig, go
18 ahead.

19 MR. KOENIG: Ms. Gallagher, it's Mr. Koenig. I've
20 heard this from some people, that they received one code or
21 not the other for whatever reason. There were a couple of
22 creditors that could elect to receive only Bitcoin or
23 Ethereum. We offered that option to people with very large
24 claims. Assuming you did not do that, the Bitcoin code is
25 coming. We've heard this from a number of people that for

1 whatever reason their email flagged one of them as spam or
2 whatever. So we are resending all of the outstanding codes.
3 And I hope that you receive it soon. It should happen in
4 the next week or so. If you still haven't received it,
5 please feel free to contact me after a week or so and I'll
6 look into it more for you. But we are aware of the issue.
7 We're trying to push out all of the claim codes. It may
8 take another week or two, but we're working on it. It is
9 coming, I assure you. It is coming. And again, assuming
10 that you didn't opt for a hundred percent ETH, your Bitcoin
11 code is out there and we'll track it down for you.

12 THE COURT: All right. Deanna, next.

13 MS. GALLAGHER: I opted to 75 percent ETH and 25
14 percent Bitcoin. So does that mean I'm definitely going to
15 get the 25 percent?

16 MR. KOENIG: You should. I obviously need to look
17 at your particularized claim. But yes, we'll look at it.

18 THE COURT: Thank you. Deanna?

19 MS. GALLAGHER: Okay. Thank you, Your Honor.

20 THE COURT: Thank you, Ms. Gallagher.

21 CLERK: We have Ezra Vazquez-D'Amico.

22 MR. VAZQUEZ-D'AMICO: Thank you. Can you hear me,
23 Your Honor?

24 THE COURT: Yes, I can. Go ahead, Mr. D'Amico.

25 MR. VAZQUEZ-D'AMICO: Thank you. I am here

1 representing myself. I'm owner of a single-member LLC that
2 manages my retirement. I'm also a Loans creditor as well as
3 a regular Celsius creditor. But I wanted to second
4 everything that's been said by the corporate creditor class
5 (indiscernible) and add in addition that I've talked to a
6 number of corporate creditors like myself who do have
7 Coinbase accounts, corporate accounts for their LLC. But we
8 were never given the option to receive the funds in
9 cryptocurrency. So I just wanted to add that fact, that
10 while Mr. Koenig said that Coinbase had pointed out that it
11 would be too difficult to onboard as many corporate creditors
12 as might have wanted to, some of us were already onboarded
13 and were not treated equitably that way. Thank you, Your
14 Honor.

15 THE COURT: Thank you, Mr. D'Amico.

16 MR. KOENIG: We will address that in our written
17 response.

18 THE COURT: Okay. Next, Deanna?

19 CLERK: Jin Wu.

20 MS. WU: Thank you, Your Honor, for your time. I
21 am an individual creditor with suspended accounts due to the
22 fact that I have more than one account with Celsius. I
23 appreciate the fact that the Debtors are working through the
24 suspended accounts to try (indiscernible) distributions. My
25 questions are the following.

1 First, is there an approximate timeline for
2 suspended users to receive our distribution? The second is
3 are there foreseeable issues that would prevent suspended
4 users from receiving these distributions? In other words,
5 what kinds of suspended users are likely not to receive
6 distributions and what kinds will receive distributions?
7 And thirdly, I just want to make sure that our distributions
8 won't be distributed in kind rather than in U.S. Dollars.
9 Thank you.

10 MR. KOENIG: Thank you. It's Chris Koenig. So
11 I'll take you in turn.

12 So just for Your Honor's edification, we had a
13 number of users that were suspended on the Celsius platform
14 for whatever reason. Many of them had multiple accounts,
15 which was a technical breach of the terms of service.

16 As we were starting distributions, we realized
17 that we had suspended these accounts and that it wasn't
18 proper to keep them suspended for what amounts to a
19 technical violation of the terms of service. So we decided
20 to unsuspend those users and process them for distributions.

21 That is a manual process. I can't just flip a
22 switch and send all of those people. We need to go through
23 and manually enable those users for distributions. We are
24 in the process of doing it. I can't give you a particular
25 day. I hope that in the next couple of weeks almost all of

1 them are enabled for distributions. I don't expect any
2 issues particularized to the formerly-suspended users. They
3 will be routed for distribution just like everybody else.

4 Now, if you are a corporate creditor and you were
5 suspended, you may get Fiat for the same reason that all the
6 other corporate creditors are going to get Fiat. So I can't
7 guarantee you that you will receive cryptocurrency. But if
8 you are otherwise able to receive cryptocurrency, you will
9 receive it.

10 THE COURT: Ms. Wu had described herself as an
11 individual account.

12 MR. KOENIG: Then it sounds to me if she lives in
13 the United States and she is an individual, I would expect
14 that she would get cryptocurrency unless she's banned on
15 PayPal and Coinbase or something for that example. But I
16 would expect that you would receive crypto. And we are
17 unsuspending your accounts in the next few weeks. We will,
18 once unsuspended, you know, send them to Coinbase and PayPal
19 for distribution. You know, that may take a little bit of
20 time to work its way through their process. But, you know,
21 I am hopeful that in the next month, month-and-a-half
22 hopefully it's in your account.

23 THE COURT: Deanna, next. Thank you, Mr. Koenig.
24 Deanna, next.

25 CLERK: Janell Eckhardt.

1 MS. ECKHARDT: Hi. I am Janell Eckhardt. I am a
2 U.S. Earn Creditor and I have a few questions or comments,
3 actually.

4 So I wanted to see if Kirkland could disclose who
5 else they considered for the corporate and international
6 distribution partner. PayPal is actually bigger
7 internationally than Coinbase. Did they consider anybody
8 else?

9 Another one is why was the app shut down early, 20
10 days versus the 90 days they originally talked about. Why
11 couldn't corporate use the app? They were already KYC
12 already. So why couldn't they use that instead?

13 Kirkland liquidated on January 16th, but they
14 didn't notify corporate accounts until January 19th
15 (indiscernible) January 23rd deadline. And if distribution
16 is U.S. Dollars, do those creditors still get back stock? I
17 don't think that's been addressed yet. And then finally
18 (indiscernible) should get -- they really should get a paper
19 notification. Some don't get emails and it goes into their
20 spam. So (indiscernible) notifications going to creditors,
21 but they're only getting email. So I would request that
22 they also get paper notifications. Thank you, Your Honor.

23 THE COURT: Thank you, Ms. Eckhardt.

24 MR. KOENIG: Thank you. Again, it's Chris Koenig.
25 So I wrote down I think many of your questions. It was why

1 Coinbase and PayPal and not another distribution agent. I'm
2 not going to disclose our discussions with other
3 distribution agents, but we did go through the process. I
4 mean, Coinbase was to my knowledge the only one who was
5 willing to service corporate accounts at all.

6 You asked why we shut down the app early, 30 days
7 versus 90 days. It was 90 days after the confirmation
8 order, not 90 days after the effective date. So what we did
9 is the confirmation order enabled custody withdrawals
10 immediately and enabled them on the app and the confirmation
11 order said that we has -- that people had 90 days from that
12 date to claim a distribution. And that was because all of
13 those distributions were through the app and were fairly
14 simple. And the Court had ruled that custody was their
15 property. So we were comfortable from a regulatory
16 perspective that we were not distributing securities in
17 violation of the securities laws. And we had talked to the
18 regulators about that. If we were to make a distribution
19 for something other than custody, I think the regulators
20 would have had something to say. So that's the question of
21 why not just let the corporate creditors take something off
22 the platform. I don't represent the SEC, but I suspect that
23 they would have had something to say if I argued that.

24 We got them comfortable that we were just -- if we
25 were returning somebody's actual property to them, that

1 might be different than making a distribution on a claim in
2 a bankruptcy.

3 But you said that we shut it down early. It was
4 90 days from the confirmation order, which I think was
5 November 9th. We actually extended that out until the end
6 of February because we wanted to give people even more time.
7 It wasn't 30 days from the effective date, it was 90 days
8 from the confirmation date.

9 And then I think you said something about paper
10 notifications. We're certainly evaluating that. And it's
11 obviously expensive to send paper notices as well. As we go
12 through the process, if it seems that people aren't getting
13 our emails, we will send them paper notices. But paper
14 notices can be lost and discarded just like emails can be
15 lost or discarded. But we're going through the process.

16 THE COURT: Deanna, next?

17 CLERK: WE have Tyson Foianini. Do you want me to
18 spell the last name?

19 THE COURT: Yes, please.

20 CLERK: F-o-i-a-n-i-n-i.

21 THE COURT: All right. Please go ahead.

22 MR. FOIANINI: Hi, Your Honor. thank you for
23 allowing me to speak today. My name is Tyson Foianini and I
24 fall under Class 6A, General Custody Claims. I'm on the
25 call today because of Document Number 4372 that I received

1 via email on March 2nd, 2024. In this document, it is my
2 understanding that the creditors may elect to reverse their
3 convenience claim elections if they mistakenly voted to opt
4 in the convenience claim election.

5 For the record, I rejected the plan in August
6 2023, not fully understanding the consequences of my vote
7 and now fall under Class 6A, General Custody Claims,
8 Treatment B.

9 From my understanding, my crypto will be
10 transferred to a segregated walled held by the post-
11 effective date Debtors and shall be subject to an all
12 avoidance and (indiscernible) claims with respect to such
13 allowed general custody claim.

14 So my question is as follows. I would like to
15 know if I can reverse my vote and fall under Class 6A,
16 General Custody Claim, Treatment A, where I would receive
17 72.5 percent of my cryptocurrency.

18 THE COURT: Mr. Koenig?

19 MR. KOENIG: Yes. Again, Chris Koenig. So we
20 represent Celsius and the post-effective date debtors.
21 There was a litigation administrator who was appointed to
22 pursue the preference issues. If you email me, Mr. Foianini
23 -- and again, my email is on all of the Celsius filings -- I
24 will put you in touch with that person who can address that
25 question. But I understand -- your question is can I make

1 the election that was offered to me before. I can't speak
2 to that. But if you contact -- I will give you their
3 contact and I hope that you get a response very soon. I
4 understand your question. We'll put you in touch.

5 MR. FOIANINI: And where did you say I could get
6 your email from?

7 MR. KOENIG: It's on any of the Celsius filings on
8 the court docket. The Kirkland signature block has my name.
9 It's Chris.Koenig@Kirkland.com. But it's on any of the
10 Celsius filings.

11 MR. FOIANINI: Thank you, Mr. Koenig.

12 THE COURT: Thank you. All right. Deanna, next?

13 CLERK: The next person that has not spoken is Don
14 Smith.

15 THE COURT: I'm only going to hear people once.

16 Mr. Smith?

17 MR. SMITH: yes. Your Honor, thank you for
18 allowing me to speak. My name is Don Smith. I am a Loan
19 creditor. And on February 23rd, I emailed Mr. Koenig, Ms.
20 Golic, and the Celsius Creditor Answers Email address
21 established by Kirkland & Ellis advising them I decided to
22 change to the BTC ETH setoff treatment at effective date
23 prices. Mr. Koenig promptly confirmed my setoff selection
24 that day.

25 Nearly a month has passed, and I have not received

1 a crypto distribution. My PayPal account is operational
2 because I received and retrieved a small Earn claim a few
3 months ago. Can Mr. Koenig please address when loan setoff
4 creditors will receive their BTC ETH PayPal claim codes?

5 Thank you.

6 MR. KOENIG: Thanks, Mr. Smith. It's Mr. Koenig.
7 Look, when you reversed your election, you went back to the
8 setoff. WE processed you for distribution. I haven't
9 looked at your particular claim. We're sending claims to
10 PayPal and Coinbase on a regular basis.

11 You've already been in touch with me it sounds
12 like via email. If you just bump up that thread, I'll check
13 into it for you and see what the status is. My guess is you
14 are somewhere in the process. But this process is not
15 instantaneous.

16 But also for anybody on the line, if you have
17 reached out to us and you have individualized questions, you
18 should just feel free to email me or the other contacts that
19 are on the FAQs at any point. We do our best to get back to
20 people as promptly as we can. It's not always
21 instantaneous.

22 THE COURT: Thank you.

23 MR. SMITH: Okay. I will send that email right
24 after the hearing. Thank you.

25 MR. KOENIG: Thanks. We'll check into it for you.

1 THE COURT: Thank you, Mr. Smith. Thank you, Mr.
2 Koenig.

3 Next, Deanna?

4 CLERK: Ralph Burton.

5 THE COURT: All right. Mr. Burton? Mr. Burton,
6 do you wish to be heard?

7 CLERK: Mr. Burton, I see you are unmuted. Can
8 you speak? Try speaking. Maybe it's a problem with your
9 microphone.

10 MR. KOENIG: Perhaps your microphone is muted
11 actually on your end with a button or something.

12 CLERK: Yeah. It's unmuted on Zoom.

13 MR. KOENIG: Right. Sometimes there is the double
14 mute. I'm guilty of that myself sometimes.

15 THE COURT: Deanna, call the next one. If Mr.
16 Burton comes through, we will listen to him after. But
17 let's go on to the next person.

18 CLERK: The next person already spoke. It's
19 Christian Funck.

20 THE COURT: No. Only speaking to people once.
21 Are there any others who haven't been heard, Deanna?

22 CLERK: No.

23 THE COURT: All right. Ralph Burton, if you want
24 to be heard, unmute your line and we'll be happy to listen
25 to you. All right.

1 Everyone who wanted to be heard has been heard by
2 the Court. Do you want to move on to the remaining item on
3 the agenda?

4 MR. KOENIG: I do. Just really quickly, Mr.
5 Hershey from White & Case represents the litigation
6 administrator. And I understand from him that he just had a
7 brief update he wanted to provide to the Court on their
8 process working through the preference issues. So with your
9 indulgence, we can turn it over to Mr. Hershey.

10 THE COURT: Mr. Hershey?

11 MR. HERSHEY: Thank you, Your Honor. Just so Your
12 Honor is aware, my video apparently has been stopped and I
13 can't turn it on. I don't need to turn it on unless Your
14 Honor wants me to.

15 THE COURT: Just go ahead.

16 MR. HERSHEY: Oh, there we go.

17 THE COURT: There you go. Go ahead.

18 MR. HERSHEY: Thank you, y h. It's been turned on
19 now. Thank you very much, Your Honor.

20 Good morning, Your Honor. Sam Hershey from White
21 & Case for the Litigation Oversight Committee or LOC for
22 short.

23 Listening to Mr. Koenig's presentation, I have to
24 admit that some relief that the LOC is now responsible for
25 handling distributions, though the LOC is certainly working

1 to stay updated on the distribution process and we
2 appreciate very much Mr. Koenig's update today.

3 Your Honor, I believe this is the first time the
4 LOC has appeared before you. So with Your Honor's
5 permission, I would like to take just a few minutes to
6 update the Court regarding the LOC's work so far including
7 (indiscernible) regarding the preference litigation that the
8 LOC has been charged with overseeing.

9 As Your Honor is aware, the LOC was formed about
10 six weeks ago on the effective date of the Debtor's planned
11 reorganization. The purpose of the LOC, a lot of the
12 litigation administrators working under supervision, is to
13 increase account holders' recoveries by investigating and
14 pursuing claims and causes of action belonging to Celsius.

15 The LOC and its professionals have begun that work
16 in earnest and will continue to keep Your Honor informed as
17 that work progresses.

18 One category of claims that the LOC has been
19 charged with overseeing is the approximately \$2.5 billion
20 preference claims against accountholders who withdrew assets
21 from Celsius during the 90 days leading up to the petition
22 date. This is a very small set of individuals. About two
23 percent of active users.

24 Notably, this group does not include
25 accountholders with preference exposure under \$100,000 who

1 were released under the plan or preference exposure resolved
2 through the custody settlement.

3 I am pleased to announce that this morning the LOC
4 released a settlement offer to all customers with unresolved
5 preference exposure, specifically the LOC is giving
6 customers the opportunity to settle their preference
7 exposure at 13.75 percent of the value of the asset at the
8 time they were withdrawn during the preference period.

9 Additionally, this offer allows customers to
10 settle their preference exposure in cash rather than by
11 returning the assets that were withdrawn, including many
12 assets which have significantly grown in value.

13 I want to note that this offer has been designed
14 as a limited-time opportunity to encourage parties to settle
15 before the LOC incurs the time and expense of litigation.
16 The LOC would encourage everyone to settle the preference
17 exposure quickly.

18 Accountholders who are eligible for this offer
19 will be receiving an email with further details including
20 how to accept the offer and get payment. Indeed, many
21 accountholders likely already have received such emails.

22 If accountholders have questions regarding the
23 settlement offer, they can visit the Stretto website where
24 they will find a new tab at the top of the page that will
25 route them to information regarding the settlement offer, or

1 they can visit the following URL;
2 Cases.Stretto.com/CelsiusLOC.

3 Additionally, I will note that the LOC has posted
4 an open letter to accountholders regarding the settlement
5 process on its X or Twitter account and will continue to
6 post further updates throughout this process.

7 That is an update for today. The LOC looks
8 forward to providing further updates to Your Honor as its
9 work progresses. Thank you very much.

10 THE COURT: Mr. Hershey, what is the -- you said
11 it is an offer for a limited time. When is the deadline?

12 MR. HERSHEY: April 15th, Your Honor.

13 THE COURT: April 15th, 2024 is the deadline for
14 accepting --

15 MR. HERSHEY: Yes, Your Honor. Exactly right.
16 April 15th, 2024. Yes.

17 THE COURT: And with respect to anyone who does
18 not accept the offer and who has a potential exposure of
19 over the \$100,000, has the Committee made the decision to go
20 forward with litigation as to those claims?

21 MR. HERSHEY: So yes, Your Honor. And the LOC
22 intends to --

23 THE COURT: People are entitled to know that
24 here's the offer, but what happens if they don't accept it?

25 MR. HERSHEY: Yes, Your Honor. I appreciate you

1 raising that. We addressed that in the communication to
2 creditors this morning. And Your Honor is absolutely right,
3 preference exposure over \$100,000 is not settled through the
4 settlement process, the Litigation Oversight Committee does
5 intend to pursue litigation to reclaim that value for
6 unsecured creditors.

7 THE COURT: And what is the number of creditors
8 who faced the preference exposure of over \$100,000 as of
9 now?

10 MR. HERSHEY: It's about 5,000 or 6,000, Your
11 Honor.

12 THE COURT: All right. Thank you very much, Mr.
13 Hershey. Anything else you want to add before we go on?

14 MR. HERSHEY: No, Your Honor. thank you for your
15 time.

16 THE COURT: Thank you, Mr. Hershey. Go ahead, Mr.
17 Koenig.

18 MR. KOENIG: Thanks, Your Honor. That was the
19 longest introduction I think I've ever given to a motion.

20 So as I think I previewed some time ago, one of
21 the most common issues that was reported in the early days
22 after the effective date was inadvertent or accidental
23 convenience claim elections. The convenience claim election
24 was an election on everybody's ballot that if somebody
25 elected would reduce the electing creditors' claim to

1 \$5,000, but they would get a guaranteed distribution of
2 liquid cryptocurrency equal to 70 percent of the reduced
3 claim. That is they would get \$3,500 of liquid
4 cryptocurrency.

5 Now, at the time the disclosure statement
6 projected Earn recoveries would have a liquid crypto
7 recovery of about half that, something like 33 percent. So
8 if you had a claim that was just above \$5,000, you could
9 elect to reduce your claim if you had \$5,050. You could --
10 if you didn't elect, you might have received 33 percent of
11 \$5,050, which lawyer math is challenging, as I've said a
12 couple of times. But that's closer to \$1,500 or \$2,000. Or
13 you could elect to just take a little bit of a haircut and
14 instead get 70 percent of \$5,000.

15 So that was the purpose of the election, was
16 people that are close to the \$5,000 mark, if they wanted to
17 forego the MiningCo equity, if they wanted to -- if they
18 just wanted the liquid crypto distribution and be done and
19 be out of the case, they could do that. And many people did
20 that.

21 Unfortunately, before the effective date we took a
22 look at the data and we realized that a number of people had
23 made that election that was clearly erroneous. I remember -
24 - I forget whether it was December or January. I stood in
25 front of Your Honor and the first thing I said was we had an

1 update on this issue. And I said, Your Honor, there are
2 seven people of over a million dollars that checked that
3 box. Those people must have been wrong.

4 So we emailed everybody over \$25,000 and said, hi,
5 we think you made a bad decision. Would you like to rescind
6 your election? And about 70 to 75 percent of them did.

7 After the effective date, a lot of people got
8 distributions and they were surprised to learn that they
9 were in the convenience class. They asserted that they
10 didn't understand the ballot, that they never actually
11 checked the box. We checked our records. In every
12 instance, our records reflect that they did check the box.

13 But it was obviously -- it seems to have been a
14 mistake. And so I'll be honest that my initial reaction was
15 there was a ballot, there was a process. I went back and I
16 read the ballot. I think the ballot is pretty clear. I
17 will say we have creditors -- 45 percent of our creditors
18 are international. Many of them do not speak English as a
19 first language, and it seems very inequitable to me for a
20 creditor of a million dollars that checked a box erroneously
21 to receive a \$3,500 distribution instead of a \$500,000
22 distribution.

23 So as the communications both to us and to
24 chambers ramped up, we realized that this was a significant
25 problem and that these pro se creditors didn't know how to

1 use the court system to ask for the relief that they wanted.
2 And so we took it upon ourselves to file a motion on behalf
3 of those creditors. It's a motion to rescind their mistaken
4 election. It's a little bit weird to file a motion for
5 another party's mistake. But we think that that's the right
6 thing to do. It's a little bit of a complicated motion.
7 Because anybody -- we ran the math. Anybody above \$9,333
8 would have never had an economic basis to make the election.
9 Even if they valued the equity at zero, they must have made
10 a mistake. For those people, we are proposing an automatic
11 revocation. They don't have to do anything at all because
12 they obviously made a mistake.

13 If you are between \$6,050 and \$9,333, you may have
14 had a reason. Maybe you prefer liquid cryptocurrency over
15 the equity. You don't value the equity and you would prefer
16 to have 70 percent of \$5,000 rather than take some equity
17 and some liquid crypto. So what we were proposing by the
18 motion is those people in that band would get an email from
19 us and they would have 30 days to affirmatively rescind
20 their election. If they do, great. We'll move them back
21 into the Earn class. And if they don't, we'll treat their
22 election as valid and, importantly, final.

23 For people between \$5,000 and \$6,050, they've
24 already received more than they would receive if they
25 rescinded their election. So it doesn't make any sense. If

1 they rescinded their election, I would have to ask them to
2 give us something back. We're not going to do that. That
3 makes no sense.

4 The motion received three responses. One from --
5 there was a letter from a creditor -- and I apologize, I
6 have it somewhere. There was a letter from a creditor,
7 Docket Number 4385, that disagreed with the requested relief
8 because his view was that the ballot was explicit and that
9 many people made this choice and this is America and people
10 should be bound to their choices. That was the only thing
11 that I would say is an objection. There was another
12 creditor that filed an objection to preserve their election.
13 That is they did not want to opt out, they wanted to keep
14 their election. We checked, and that person was actually
15 not in the convenience class, which is very confusing to me.

16 THE COURT: On the agenda it says objection to
17 claim being rescinded by Patrice (indiscernible).

18 MR. KOENIG: I think that's -- what is the docket
19 number on that?

20 THE COURT: 4594.

21 MR. KOENIG: That was the one I just spoke about.
22 That person said I do not wish to rescind my election. That
23 person actually did not make the election. But it is what
24 it is.

25 Another creditor filed a letter, 4678, complaining

1 that they couldn't rescind the election if they were below
2 the sixty-fifty mark. But again, they actually do better
3 where they are. So that doesn't make sense.

4 And then somebody else at 4718 said that he was
5 not informed that selecting the convenience claim election
6 would reduce his recovery. I think he's supporting the
7 motion. But again, he actually is not a convenience class
8 member and I think is confused.

9 THE COURT: Address the issue, because I think in
10 your motion you addressed the issue about the reserves that
11 are available and sort of the impact. I think one of the
12 things I'm focused on is if I grant the motion, what if any
13 impact does it have on other creditors in the case.

14 MR. KOENIG: Yes. That's important, Your Honor,
15 for sure. And that was one of the things that we focused
16 on.

17 So it's in the motion. But we have reserves in
18 this case because there are people that opted out of the
19 settlement and are going to litigate. And they could win or
20 they could lose. And so we set aside some funds in case
21 they are right and we are wrong. We have reserves for \$500
22 million of claims above and beyond the dollar values on the
23 schedules. Now, some of those are other cryptocurrency
24 firms that have sued us for, you know, their equivalent of
25 preference under foreign law. And so it's not all

1 individuals. But we have ample reserves. That said, we of
2 course can't just release everything from the reserves. I'm
3 sure that some of the corporate creditors are writing down
4 everything I'm saying and saying, well, why don't you
5 release the reserves for me. Those numbers are much larger
6 I would say.

7 So to Your Honor's question, if we revoke all of
8 the elections above \$9,333, we will release approximately
9 \$18.3 million worth of liquid cryptocurrency at the January
10 16th prices from the reserves, which is significant. But we
11 are comfortable that we have enough reserves to meet our
12 obligations under the plan. It's another \$6 million of
13 MiningCo stock. That's less of a problem because, you know,
14 MiningCo can issue more stock. And then more creditors will
15 receive future recovery rights under the plan. Again, that
16 is the -- those are the people that made a big mistake.

17 Assuming the revocation of the people in the
18 narrow band in the middle, the \$6,050 to \$9,333, that would
19 be \$1.1 million worth of additional liquid cryptocurrency.
20 It's a lot of people, but it's a small band. And if you had
21 \$8,000 and you were reduced to \$5,000 and we're putting you
22 back to \$8,000, it's a small dollar amount. The biggest
23 issues are the large creditors that made a big mistake.

24 So in total, Your Honor, it's \$19.4 million of
25 liquid cryptocurrency would come out of the reserves for

1 which we are comfortable we have sufficient cushion to fix
2 this mistake.

3 THE COURT: Does anybody from the U.S. Trustee
4 wish to be heard? There were no objections. I know on the
5 agenda you've listed letters that were received.

6 MR. KOENIG: I was trying to make sure that people
7 had their voices heard.

8 THE COURT: Yeah. So Ms. Cornell?

9 MS. CORNELL: Good morning, Your Honor. Shara
10 Cornell with the Office of the United States Trustee.

11 The United States Trustee is aware of many of the
12 ongoing distribution issues. We are in receipt, just as
13 Your Honor is, of many emails on a daily basis from
14 creditors and constituents in these cases, some of which
15 have been reiterated on the docket via letters and also some
16 independent comments.

17 Prior to this hearing, we had reached out to
18 Debtors with a request for a status update, which the
19 Debtors have provided to the Court today. And I think it is
20 helpful for putting many of the stated concerns into context
21 for all of the creditors.

22 Our office are continuing to monitor the issues
23 and will provide assistance to the parties where
24 appropriate.

25 THE COURT: My question right now, I'm happy to

1 hear you on all of the matters, Ms. Cornell. But
 2 specifically with respect to the motion which is -- the
 3 motion to revoke mistaken convenience class elections, it
 4 was ECF 4372. And you didn't file an objection on that.

5 MS. CORNELL: No, I did not, Your Honor.

6 THE COURT: (indiscernible) ask whether -- your
 7 position with respect to it.

8 MS. CORNELL: We took no position with respect to
 9 the pending motion, Your Honor.

10 THE COURT: All right. Thank you. Does anybody
 11 else wish to be heard with respect to this pending motion?

12 CLERK: Judge, Artur Abreu has his hand up.

13 THE COURT: All right. Mr. Abreu?

14 MR. ABREU: Hello, Judge. Just wanted to
 15 highlight the support that we have. I think I have a group
 16 with 130 people all in support. And I just want to
 17 highlight that at no point on the ballot were people aware
 18 of were they notified that they will be in some cases
 19 rescinding 90 percent of their recoveries.

20 THE COURT: I understand our position, Mr. Abreu.
 21 Thank you very much.

22 MR. ABREU: Thank you.

23 Does anybody else wish to be heard?

24 CLERK: I do not see any additional hands.

25 THE COURT: All right. This potentially is a

1 complicated issue. Because the issue actually arose before
2 the effective date of the plan, I consider it different than
3 for example in the Boy Scouts case where it was much, much
4 later.

5 MR. KOENIG: It was more than a year after.

6 THE COURT: Correct. So this issue -- and at some
7 point before the hearing date the issue was highlighted to
8 me about this potential issue about mistaken election of
9 convenience class treatment. And I think because this issue
10 arose before the effective date but only comes up actually
11 today with the motion, I consider this materially different
12 than the situation in Boy Scouts, for example. And really
13 in the absence of any objection in light of when it was
14 first raised with the Court, the motion is granted.

15 MR. KOENIG: Thank you, Your Honor. We will work
16 to send the emails.

17 THE COURT: All right. I think that concludes our
18 agenda for today. Just let me come back to I think -- I'm
19 not sure you need to address every one of the issues that
20 arose today, but I think you should do a filing that
21 addresses it. I don't have any motions pending before me.
22 I think we've raised issues that -- they are of concern to
23 me.

24 MR. KOENIG: Right. We sill address the common
25 issues including corporate creditors and loan creditors.

1 And we will review the transcript, but those are the two
2 that really stuck out to me.

3 The other thing is I mentioned -- I had forgotten
4 about the bank. It's Citizens Bank, Your Honor, which is a
5 bank that I am sure you are familiar with. Okay.

6 Anything else for me, Judge?

7 THE COURT: No. Thank you very much.

8 CLERK: Sorry, Judge. Simon Dixon has his hand
9 up.

10 THE COURT: We have finished the agenda for the
11 day. The hearing is adjourned. Thank you.

12 (Whereupon these proceedings were concluded at
13 12:42 PM)

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I N D E X

RULINGS

	Page	Line
Motion, GRANTED	89	14

C E R T I F I C A T I O N

I, Sonya Ledanski Hyde, certified that the foregoing
transcript is a true and accurate record of the proceedings.



Sonya Ledanski Hyde

Veritext Legal Solutions

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Mineola, NY 11501

Date: March 21, 2024

&	15 17:4	21 60:19 92:25	4372 2:6 71:25
& 3:15 12:16	15,000 26:2	22-10964 1:3	88:4
44:12 45:16	150 13:5 15:18	23rd 69:15	4385 84:7
46:4 47:17	150,000 27:8	73:19	4417 2:6
48:7 52:19	15th 48:24	25 39:8 65:13	4433 2:6
73:21 76:5,21	79:12,13,16	65:15	4434 2:6
1	16 55:7	25,000 82:4	4485 2:6
1 39:3 59:9	165 45:16	250 39:10	45 32:19 82:17
1,500 81:12	52:20	29th 61:17	4530 2:6
1,700 38:10	16th 17:5,20,20	2nd 72:1	4594 84:20
1,800 36:1,5	18:12,22 23:24	3	4623 44:13
38:3,8,25	25:1 39:17	3 59:8	47:17 61:3
1.1 86:19	40:8 43:23	3,500 81:3	4678 84:25
10,000 55:2,6	44:6,22 50:14	82:21	4713 2:7
100 35:20 38:5	51:8 52:18	30 30:23 70:6	4718 85:4
38:19,23 39:7	54:22 55:4	71:7 83:19	4719 42:22
44:7 48:6	69:13 86:10	300 3:17 92:22	46:10
50:23	17 30:3	305,000 50:7	4732 2:7 20:13
100,000 77:25	18 51:12	33 81:7,10	47th 21:2
79:19 80:3,8	18.3 86:9	330 92:21	5
10004 1:13 4:5	19.4 86:24	350 40:19,24	5 36:9
11 21:9 22:17	19th 69:14	36 61:1	5,000 39:1 63:8
11501 92:23	2	370 56:21	80:10 81:1,8
11:04 1:16	2,000 81:12	4	81:14,16 83:16
11th 48:8	2,600 17:21	40 44:5	83:23 86:21
12151 92:6	2.069 64:14	400,000 13:4	5,050 81:9,11
12:42 90:13	2.5 77:19	36:8	50 30:25
13 30:3	20 1:15 31:10	4220 48:7	500 85:21
13.75 78:7	69:9	43 18:10	500,000 82:21
130 88:16	20,000 25:10	43,000 17:21	534 4:4
13th 47:18	2022 54:25	18:7,7,14,15	57 55:4
54:25 55:2	55:2	58:20 59:16,18	57,000 55:7
14 21:8 30:24	2023 72:6	59:22	58 55:4
91:5	2024 1:15 17:5	4319 48:24	58,000 55:7
14th 29:7 61:4	55:4 72:1	4336 2:6	
	79:13,16 92:25		

6	9	accidental	actually 14:9
6 86:12	9,333 83:7,13	80:22	16:9 21:4
6,000 80:10	86:8,18	accommodate	22:25 23:1
6,050 83:13,23	90 15:13 16:12	51:18 57:22	24:3,6 27:15
86:18	69:10 70:7,7,8	accordance	35:14 40:22
60 44:4 60:18	70:11 71:4,7	18:22	51:14 56:4
60654 3:18	77:21 88:19	account 18:24	69:3,6 71:5
63,000 18:6	900 39:1,2	21:5,15 28:13	75:11 82:10
65 18:9	95 31:19	28:13,17,25	84:14,23 85:2
65,000 18:6	9th 71:5	29:2,5,14,16	85:7 89:1,10
59:23		29:19,23 30:5	ad 13:20
6a 71:24 72:7	a	31:3 32:12	ada 54:18,19
72:15	aamir 6:9	35:22 54:24	54:23,23
7	aaron 5:13	55:2 57:11	add 62:25 66:5
70 29:25 81:2	10:17	60:19 66:22	66:9 80:13
81:14 82:6	able 13:21,23	68:11,22 74:1	added 48:2
83:16	23:5 24:23	77:13 79:5	addition 66:5
72.5 72:17	29:12 30:6	accountholders	additional 51:4
75 30:24 65:13	41:25 44:20	45:22 77:20,25	86:19 88:24
82:6	45:1 46:20	78:18,21,22	additionally
78 36:2,6 39:4	56:7,12 68:8	79:4	78:9 79:3
8	above 81:8	accounts 29:9	address 32:22
8 37:16	83:7 85:22	29:22 33:13	34:8,17,18,20
8,000 86:21,22	86:8	43:1,2,4,5,7,14	34:20 35:4
80 26:10 31:9	abreu 3:3	43:19,21 44:7	41:5,18 53:25
31:11 42:18	62:19,20,21,23	44:7,11,13	57:1 60:5
45:11	62:25 63:22,24	46:1,25 48:6	66:16 72:24
80/20 31:9	64:1,5 88:12	49:14 52:7	73:20 74:3
82,000 50:19	88:13,14,20,22	66:7,7,21,24	85:9 89:19,24
83 26:18	absence 89:13	67:14,17 68:17	addressed
85 26:17,18	absolutely 80:2	69:14 70:5	69:17 80:1
30:25	accept 52:12	accurate 92:4	85:10
86 21:6 26:17	78:20 79:18,24	action 77:14	addresses
89 91:5	accepting	active 77:23	89:21
	79:14	actual 55:24,24	adjourned
	access 20:12	70:25	90:11
	43:8		

administrative 51:3	55:19 60:11 62:20,22 64:9	ample 86:1	appointed 72:21
administrator 72:21 76:6	64:18 65:24 71:21 76:15,17	amulic 4:13	appreciate 19:25 30:17
administrators 77:12	80:16	anders 8:22	66:23 77:2
admit 76:24	aimed 43:2	andrea 4:13	79:25
advantage 33:2	airplane 25:19	andrew 10:7	appreciation 50:16 51:11
advice 58:10	akin 29:13	anecdotal 30:18	appropriate 87:24
advising 73:21	alex 11:3	anecdotaly 28:3 30:13	approving 2:2
advocate 59:25	alexander 4:3	announce 78:3	2:4
affect 24:18	alike 30:15	answer 23:11	approximate 67:1
affected 43:10	allow 26:8	55:10	approximately 50:7,19 77:19
affecting 43:9	27:22 41:23	answering 27:23	86:8
affiliated 37:6	56:19	answers 25:24	april 79:12,13
affirmatively 35:4 83:19	allowed 14:20	26:8 73:20	79:16
afforded 51:22	16:1 48:4	anti 14:24	archer 10:16
agenda 76:3	57:25 72:13	anticipated 51:15	area 25:6
84:16 87:5	allowing 42:10	anybody 16:15	areas 35:17
89:18 90:10	59:22 71:23	19:13 22:4	argier 4:14
agent 15:16,18	73:18	33:3 34:22	argue 59:23
38:15 61:25	allows 32:13	59:24 69:7	argued 70:23
70:1	35:20 78:9	74:16 83:7,7	arguing 49:11
agents 14:16	alt 14:4 54:7	87:3 88:10,23	59:15
38:3 70:3	america 15:23	apologies 50:2	argument 59:25
ago 19:1 26:25	84:9	apologize 31:24 84:5	arose 89:1,10
30:1 61:12	aml 14:25	app 69:9,11	89:20
74:3 77:10	37:13 47:23	70:6,10,13	artur 3:3 62:19
80:20	amount 16:16	apparently 76:12	88:12
agreement 35:19 36:21	17:6,19 20:17	appear 24:18	ashley 9:19
37:24 48:5	36:11 40:4,4	appeared 77:4	asian 15:21
ahead 12:14	40:22 42:19	appears 22:24	aside 17:6
20:15 30:20	56:11 57:8	application 41:14	23:24 56:16
37:22 46:22	58:4,7,18 59:7		
50:3 54:4,12	86:22		
	amounts 29:24		
	67:18		

85:20 asked 33:8 70:6 asking 33:7 45:12 53:19 asserted 82:9 asset 78:7 assets 45:1 52:14,18 56:20 77:20 78:11,12 assigned 21:6 assistance 87:23 assuming 64:24 65:9 86:17 assure 64:13 65:9 assured 33:16 41:9 51:21 attempt 28:19 28:23 61:9 attempted 35:6 60:20 attempts 61:20 61:20,24 attended 42:11 attention 43:17 attorneys 3:16 4:2 august 72:5 automatic 2:2 83:10 available 85:11 avery 6:8 avoidance 72:12	avoided 48:21 aware 65:6 76:12 77:9 87:11 88:17 b b 1:21 72:8 back 14:13 15:9 27:19 29:1 33:23 34:7 38:17 43:12 48:7 49:11 52:20 53:24 56:4,11 57:24 58:2,4,7 58:18 60:21 63:10 69:16 74:7,19 82:15 83:20 84:2 86:22 89:18 bad 82:5 balance 40:17 ball 18:11 ballot 80:24 82:10,15,16,16 84:8 88:17 band 83:18 86:18,20 bank 32:2,3,10 32:25 33:24 34:9,19 90:4,4 90:5 bank's 34:17 banking 32:9 33:17,19,21 35:12 45:1 47:7 51:9 52:15	bankruptcies 30:21,22 bankruptcy 1:1,11,23 13:16 32:5 42:13 47:25 50:10 51:25 54:19 71:2 banks 32:8 33:3 banned 23:16 23:21 24:8 29:13 30:7 36:17 62:14 68:14 barnes 4:15 barry 6:10 barse 4:16 based 16:6,7 32:16 43:22 46:3 50:5 basis 29:20 74:10 83:8 87:13 bauldree 4:17 bears 30:19 becin 4:18 beginning 38:18 begun 77:15 behalf 45:10 83:2 believe 16:12 17:18 20:3 21:2 46:16 51:24 52:1 61:3 77:3	believed 40:2 bells 32:12 belong 57:18 58:3 belonging 77:14 belongs 57:18 beltran 4:19 beneficiaries 37:25 beneficiary 36:23 benefiting 51:10 benefits 13:15 bennet 10:17 berg 10:9 bernard 4:20 bernstein 4:21 best 17:24 18:11 19:1,3,7 23:1 25:16 38:6 47:2 60:5 74:19 better 38:5 85:2 beutler 4:22 beyond 85:22 big 36:6,8 86:16,23 bigger 69:6 biggest 33:25 86:22 billion 36:9 77:19 billions 15:11
---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

birch 10:10 bit 12:18 16:11 16:22,24 27:5 27:11 28:8 29:25 31:16,20 35:10 36:10 68:19 81:13 83:4,6 bitcoin 13:8 14:4 16:13,18 17:10,15,16,20 18:5,6,14 23:25 24:9,9 39:20 44:4 48:19 49:9 50:13,16 54:21 55:1,3,6,8 58:8 58:18,20 59:6 59:16,18,22,23 64:22,24 65:10 65:14 bjergaard 8:22 blaine 4:20 blanking 33:22 33:24 blended 26:18 block 73:8 blurb 61:4 bore 28:16 borrow 55:22 56:1,6 borrower 59:1 59:4,7,10,11 borrowers 40:17 57:4,14 57:19,19,22	botswana 16:10 31:14 bottom 22:11 61:4 bought 13:14 18:18 32:2 58:20 59:16,18 bound 84:10 bowling 1:12 4:4 box 82:3,11,12 82:20 boy 18:14,23 25:25 89:3,12 bradham 4:23 brass 31:21 bray 4:24 breach 52:4 67:15 breached 44:9 52:5 breaching 41:12 breuder 4:25 brian 4:9 brief 42:3 76:7 briefly 49:13 51:13 bring 43:16 64:6 brink 5:1 broad 37:10 bronge 5:2 bruh 4:8 btc 64:12,14 73:22 74:4	build 25:19 bump 74:12 burden 51:3 burks 9:17 burton 5:3 75:4,5,5,7,16 75:23 business 49:7 button 75:11 buy 58:3 59:22 c c 3:1 6:24 12:1 55:17 92:1,1 caceres 10:11 calculate 17:2 calculations 18:1 california 16:9 24:3 31:14 call 16:19 35:24 71:25 75:15 calling 55:21 55:21 calls 30:14,16 cam 5:16 cancel 35:15 cancelled 30:16 capable 51:5 52:6 care 37:15 39:12,15 cared 39:18 carefully 14:1 cares 39:14	carl 5:4 9:2 carla 8:16 carol 8:8 caroline 10:3 carroll 5:6 case 1:3 12:20 13:25 16:5,23 19:12 21:19 30:8 37:16 39:2 50:10 56:1 63:14 76:5,21 81:19 85:13,18,20 89:3 cases 87:14 88:18 cases.stretto.... 79:2 casey 8:14 60:10 cash 16:6,16 17:7,9,19 18:20 39:15 44:18 48:15 49:5,6,8 58:21 58:21 78:10 categories 37:2 category 77:18 cathy 7:21 11:1 caught 28:1 caused 51:9 52:15 causes 77:14 celsius 1:7 14:6 24:11 27:14 28:15,21 36:7 37:20 41:10
------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

43:14 47:1,24 50:6,9 53:17 53:23 54:24 57:6,18 58:22 60:15 61:16 66:3,22 67:13 72:20,23 73:7 73:10,20 77:14 77:21 celsiusloc 79:2 certain 37:2,6 certainly 71:10 76:25 certified 92:3 cetera 21:20 challenge 36:12 challenging 23:3 81:11 chambers 82:24 chang 3:5 42:17 46:16,18 46:22,23,24 49:23 change 5:7 32:1 73:22 channels 20:7 42:20 characterize 41:11 charged 77:8 77:19 chart 31:25 chase 8:7 check 18:7 28:24 32:22	33:1 34:25 35:3,5,14,16 54:2 74:12,25 82:12 checked 82:2 82:11,11,20 84:14 checks 32:14 32:17,25 chicago 3:18 choice 59:24 84:9 choices 84:10 chris 3:20 4:18 12:16 27:18 28:13,15,18,25 29:2,3 44:1 45:14 53:16 57:2 62:3 63:1 67:10 69:24 72:19 chris.koenig 53:23 73:9 christian 3:7 55:15,17 75:19 christina 5:9 christopher 4:23 5:11 7:16 ciamarone 5:8 ciancarelli 5:9 circumstances 48:10 citizens 90:4 claim 2:3,5 20:23 33:4 47:4 50:6,18 54:17,18,20,24	55:6 57:19,20 57:21 59:13 60:21,24 61:6 62:13 63:8 65:7,17 70:12 71:1 72:3,4,13 72:16 74:2,4,9 80:23,23,25 81:3,8,9 84:17 85:5 claimed 20:18 21:4,8 64:11 claiming 23:9 claims 12:19 13:2 16:4 20:24 21:1,24 36:2,6,8,9 39:1 39:3,4 47:4 64:24 71:24 72:7,12 74:9 77:14,18,20 79:20 85:22 claire 4:7 clara 10:18 clark 5:10 class 20:23 40:14 55:22,22 55:24,25 56:1 56:6,6,12 64:3 66:4 71:24 72:7,15 82:9 83:21 84:15 85:7 88:3 89:9 classified 49:2 clear 34:16,20 36:25 41:24 48:16 82:16	clearly 81:23 clerk 12:2 40:11 42:7 46:16 49:25 50:2 52:25 55:15,17 60:10 62:19 64:8 65:21 66:19 68:25 71:17,20 73:13 75:4,7 75:12,18,22 88:12,24 90:8 clerks 25:12 clicked 21:11 close 44:17,21 45:2,24 81:16 closed 40:21 closer 81:12 closing 49:12 coco 5:11 code 21:11,13 23:1 53:19 54:1,19 64:11 64:12,13,16,20 64:24 65:11 codes 21:12 22:20,21 28:12 60:21,23 65:2 65:7 74:4 cohen 5:12 cohort 40:21 40:21 coin 14:5 54:7 coinbase 14:16 14:18 15:17,18 15:19,24 16:10 23:20,21 24:4
--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

24:24 26:18,19 27:16,21 28:9 28:12,13,17,18 28:23 29:6,12 29:13,21,23,25 30:12 35:19 36:14,15 43:21 51:20 61:9,18 61:20,21,23,24 62:7,8,10,12 62:16 63:4,13 63:16 66:7,10 68:15,18 69:7 70:1,4 74:10 coins 14:5 56:11 collateral 57:7 57:18,24 58:2 58:4,5,7 59:9 59:13 colleague 19:16 20:1 collectively 39:3 colodny 5:13 colon 5:14 column 20:8 come 14:13 53:24 58:15,25 86:25 89:18 comes 29:1 75:16 89:10 comfortable 70:15,24 86:11 87:1 coming 63:12 64:14,25 65:9	65:9 comment 56:19 comments 42:3 69:2 87:16 commercially 58:23 commitment 48:16 committee 13:20 25:14 76:21 79:19 80:4 committing 48:23 commodity 16:19,21 17:10 18:16 common 12:24 26:3,8 31:21 80:21 89:24 communicati... 25:18 26:23 28:5 29:10,18 33:7 35:2 80:1 communicati... 25:6 26:20 28:1 31:4 32:21 82:23 company 21:25 27:14 33:17 compensated 44:19 compile 22:15 complained 25:22	complaining 84:25 complete 29:4 31:3 34:2 35:7 completed 22:18,25 complex 14:11 complexities 47:8 complexity 48:2 49:3 compliance 47:20,23 51:2 compliant 13:24 15:7 38:16 complicated 13:2,10 14:14 16:17 19:8 27:5,13,25 28:17 38:1 40:5 58:25 59:17 83:6 89:1 comply 17:7 complying 14:12,22 17:25 computer 42:1 concern 35:17 89:22 concerns 24:11 50:8 87:20 concluded 90:12 concludes 89:17	confident 33:25 confidential 41:7 confidentiality 41:12 confirmation 14:9 57:17 70:7,9,10 71:4 71:8 confirmed 73:23 confused 85:8 confusing 84:15 congratulation... 28:20 connected 42:18 45:12 conor 10:12 consequence 57:22 consequences 72:6 consider 69:7 89:2,11 consideration 46:8 49:19 considered 69:5 constituents 87:14 contact 23:4 65:5 73:2,3 contacted 34:23 63:21
---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

contacts 74:18	43:2,5,17,19	court 1:1,11	80:7,12,16
contain 43:7	44:11,18 45:6	12:3,6,11	83:1 84:16,20
context 12:23	45:11,13,22	16:22 19:18,23	85:9 87:3,8,19
50:6,10 87:20	46:1,25 47:13	20:10,12,15	87:25 88:6,10
continue 25:19	47:19,21 48:14	21:16 22:6,10	88:13,20,25
77:16 79:5	49:13,16 50:5	23:4,12 24:15	89:6,14,17
continued	50:9,22,23	24:17,21 25:11	90:7,10
34:15	51:6,14,22	26:9,13 33:11	courtney 9:17
continuing	52:3,6,11,16	33:19,21 34:4	courtroom
87:22	66:4,6,7,11	34:10,13 36:4	12:7,13 41:25
convenience	68:4,6 69:5,11	36:25 37:8,14	41:25
2:3,5 40:14	69:14 70:5,21	37:20 38:9	create 30:4
64:3 72:3,4	86:3 89:25	39:19 40:12	credibility
80:23,23 82:9	corporations	41:20,22 42:8	47:11
84:15 85:5,7	35:21	42:11,13,21	credit 55:24
88:3 89:9	correct 21:14	45:20 46:9,14	56:6
conventional	35:7 56:3 89:6	46:21 49:5,11	creditor 16:4
43:2	correctly 34:3	49:23 50:1,3	26:25 27:23
conversation	corresponde...	52:24 53:1,11	35:24 36:19
38:17	12:19	53:15 54:4,11	37:23 44:16
conversations	corrupt 32:25	55:14,16,19	45:7 46:24
13:19 41:11,15	cote 5:4	56:25 60:1,8	50:5 52:19
conversion	countries 13:5	60:11 62:1,18	55:22,24 62:21
54:16	15:18,21,22	62:20,22,24	66:2,3,4,21
converted 24:7	39:23	63:12,22,25	68:4 69:2
cook 5:15	country 13:5	64:2,7,9,17	73:19,20 82:20
copies 25:14	15:23 24:2,3	65:12,18,20,24	84:5,6,12,25
copy 61:14	32:24 92:21	66:15,18 68:10	creditors 12:25
cori 5:12	couple 19:22	68:23 69:23	13:11,14,20,21
cornell 4:7	28:9 30:15	70:14 71:16,19	16:12 18:5,14
87:8,9,10 88:1	31:23 62:11,16	71:21 72:18	18:19 19:11
88:5,8	64:21 67:25	73:8,12,15	21:7,12,16
corporate	81:12	74:22 75:1,5	23:2 24:19
32:11 35:18,20	course 13:23	75:15,20,23	27:13 32:19
35:24 36:1,5	15:6,25 16:11	76:2,7,10,15	33:6 34:5 35:7
36:12,19 38:5	18:3 53:25	76:17 77:6	35:18,20 36:2
40:6 42:18,25	86:2	79:10,13,17,23	36:5,8,12 37:3

37:18 38:3,5 38:25 39:11,14 39:15 40:4,6 40:23 41:23 42:16,18,25 43:17 44:18 45:4,5,6,11,13 45:19,25 46:5 46:6 47:10,14 47:19,21 48:14 49:16 50:9,22 50:23 51:6,10 51:14,19,22 52:2,3,9,10,11 52:16,21 59:22 60:14 63:3,19 63:20,21 64:22 66:6,11 68:6 69:16,20 70:21 72:2 74:4 80:2 80:6,7,25 82:17,17,25 83:3 85:13 86:3,14,23 87:14,21 89:25 89:25 crews 5:16 crusell 5:17 cruz 5:18 crypto 13:15 13:15,18,21 14:12 16:6,12 17:7,9,16,18 17:18 18:3,5,9 18:20,20,25 19:10 21:17 24:5,6,6,23,25	26:16 28:20 30:10,22 32:5 32:6 36:19 38:4 39:24 40:4,7,8 43:23 44:22,24 51:21 56:5 60:16 68:16 72:9 74:1 81:6,18 83:17 cryptocurrency 13:7,7,9,12 14:19,21 15:14 16:15 17:3 38:14 39:11 43:21 44:14,15 44:16 45:21,23 47:15 48:9,14 50:12,18,24 51:11,20 52:10 52:14,22 54:17 66:9 68:7,8,14 72:17 81:2,4 83:14 85:23 86:9,19,25 crystal 18:10 34:20 cunha 5:5 currency 15:4 current 33:21 45:23 50:20 51:21 currently 24:23 37:9 47:19 50:18 curve 30:20	cushion 87:1 custody 70:9 70:14,19 71:24 72:7,13,16 78:2 custom 4:3 customer 14:24 28:15 60:20 customers 15:19 78:4,6,9 d d 6:5,18,23 9:2 9:11,18 12:1 91:1 d'amico 9:25 65:21,22,24,25 66:15 daily 87:13 dalhart 5:19 dan 7:5,20 daniel 8:6 darious 6:13 data 27:17,19 30:6,19 38:25 81:22 date 2:1 12:16 15:10 16:25 17:2,4,4,5,11 17:22 18:1,15 21:3 25:8 29:8 32:21 38:20 44:17 47:25 49:1,7 50:14 51:16 54:18,20 54:25 56:17,21 58:16,24 61:8	70:8,12 71:7,8 72:11,20 73:22 77:10,22 80:22 81:21 82:7 89:2,7,10 92:25 dave 8:4 david 4:16 5:19,20 6:8 7:4 9:9,13,21 day 21:2 25:9 60:23 67:25 73:24 90:11 days 12:20 17:4 25:8 28:4 30:1,15,16,23 30:24,25 49:7 61:1,12 69:10 69:10 70:6,7,7 70:8,11 71:4,7 71:7 77:21 80:21 83:19 deadline 69:15 79:11,13 deal 38:9 64:2 dealing 33:11 deanna 20:3 40:12 42:5 46:15 49:24 52:24 55:14,16 60:9 62:18 64:7 65:12,18 66:18 68:23,24 71:16 73:12 75:3,15,21 deborah 6:12
-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

debtor 1:9 3:16 25:13 43:18 44:8 48:25 debtor's 22:2,3 47:18 48:13,16 52:8 77:10 debtors 2:1 12:17 13:16 39:5 44:9,15 44:25 46:10 47:6,11,25 48:21 49:2 51:4,18 52:1,4 52:13 58:22 61:8,19 66:23 72:11,20 87:18 87:19 decades 43:12 december 81:24 decided 41:1 67:19 73:21 decision 79:19 82:5 deehan 10:12 default 57:4,13 deficiency 48:23 definitely 65:14 dehart 5:21 delay 33:2 35:12 50:15 delays 51:9 delivered 32:24	delta 59:14 demand 13:11 demanding 47:21 denied 41:14 denominator 20:25 department 4:1 deposit 33:1 35:14,15 deposited 21:14 deputy 41:25 der 10:15 describe 12:21 described 21:18 68:10 deserve 49:21 designed 16:3 78:13 detail 33:16 detailed 26:22 details 28:16 78:19 determine 46:11 develop 27:20 developed 14:11 16:3 27:12 development 41:13 diaz 5:23 dieter 10:2	dietrich 10:21 difference 57:20,21 59:8 different 14:23 20:6 23:7 53:21 54:16 71:1 89:2,11 differently 45:7 52:3 difficult 18:16 31:12,22 41:6 66:11 difiore 5:22 directed 43:5 directing 27:14 59:2 direction 23:3 directions 21:21 22:11 directly 25:15 disagreed 84:7 disaster 32:8 discarded 71:14,15 disclose 69:4 70:2 disclosure 14:17 38:13 81:5 discrepancy 44:6 discretion 48:21 discriminated 52:2 discrimination 52:1 55:23	56:15 discussed 50:23 discussions 41:6 70:2 dispute 47:4 distress 32:4 distressing 64:16 distribute 15:19,24 16:1 30:24 35:20 36:13 38:4 39:24 45:2 47:19 61:20 distributed 15:3 20:19 21:3 29:24 30:25 31:2 34:13 48:25 54:21 60:24 67:8 distributing 13:6,8 70:16 distribution 12:23 13:3,10 13:12 14:11,15 14:16,19 15:6 15:16,18,25 16:18 17:2,3 20:7,9 21:9,10 21:25 22:14 23:19 26:1 27:1,18,21 28:6,19 30:18 36:9 38:2,15 43:20,25 44:10
-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

44:18,21 47:3 47:6,8,15 48:2 48:5,9,11,15 48:17,18,25 49:4,8,21 50:17,19 51:5 52:6 53:6,7,8 53:10 54:8 55:5 59:3 61:6 61:7,9,24,25 62:11,17 67:2 68:3,19 69:6 69:15 70:1,3 70:12,18 71:1 74:1,8 77:1 81:1,18 82:21 82:22 87:12 distributions 13:4,18 14:1,2 14:4,21 15:13 16:14 17:3 19:16 20:18,22 22:3,3 26:10 26:16,17 27:7 27:15,16,17 29:6 30:21 31:17 37:2,10 41:2 42:24 43:18,22 44:14 44:20 45:5,18 45:21 46:2,4 49:6 50:11 52:17 60:15 61:18 62:7,8 63:2 66:24 67:4,6,6,7,16 67:20,23 68:1	70:13 76:25 82:8 distributor 48:1 district 1:2 dixon 5:24 90:8 doc 2:6 docket 12:19 20:13 22:1,7,8 42:22 44:12 47:17 48:7,24 53:20 61:3,3 61:12 63:23 73:8 84:7,18 87:15 dockets 47:9 document 71:25 72:1 documented 47:9 documents 59:2,2 dogecoin 14:5 doing 19:1 23:1 40:23 45:3 47:2 63:4 67:24 dollar 18:7 33:1 36:11 40:22 43:22 46:2 48:25 53:6 57:9 58:5 59:4,14 85:22 86:22 dollars 13:9,19 15:11 16:2	32:1,6 33:4 34:23,25 38:17 44:19 45:23,25 48:11 50:11,24 51:1 57:10,12 58:5,6,7,15 59:6,12,13 67:8 69:16 82:2,20 don 73:13,18 donald 5:1 double 17:22 75:13 dow 5:25 drew 17:1 driver's 36:14 dropdown 23:9 due 47:19 48:9 48:19 49:2 50:13 66:21 duffy 6:1 dufourg 6:2 duties 52:5 duty 44:9 52:4 dzaran 6:3 e e 1:21,21 3:1,1 5:17 9:7 12:1,1 91:1 92:1 earlier 29:18 43:20 47:2,22 49:13 51:13 early 12:20 69:9 70:6 71:3 80:21 earn 46:25 63:20 69:2	74:2 81:6 83:21 earnest 77:16 easier 22:16 easy 13:17 17:16 28:21 eaton 6:5 ecf 20:12,13 22:11 46:10,11 88:4 eckhardt 6:6 68:25 69:1,1 69:23 economic 83:8 ecro 1:25 ed 10:10 edification 36:1 67:12 effect 37:8,9,22 effective 2:1 12:16 15:10 16:25 17:5 18:15 21:3 25:8 29:7 32:21 38:20 47:25 49:1,7 50:14 51:16 56:17 58:16,24 61:8 70:8 71:7 72:11,20 73:22 77:10 80:22 81:21 82:7 89:2,10 effectively 57:11 effort 53:3
------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

efforts 58:24	29:3,17 53:22	entry 2:2	et 21:20 54:1
eightball 35:11	53:22,24 55:13	ecoin 8:9	eth 14:4 65:10
either 19:18	60:23 65:1	equal 45:19	65:13 73:22
elect 64:22	69:21 72:1,22	46:6 52:20	74:4
72:2 81:9,10	72:23 73:6,20	57:7 58:7 81:2	ethereum 13:8
81:13	74:12,18,23	equally 44:11	16:13 17:15,17
elected 21:17	78:19 83:18	45:9	17:21 23:25
24:23 40:19,25	emailed 73:19	equipped	44:5 48:19
80:25	82:4	33:16	49:9 50:16
electing 80:25	emails 21:12	equitable	54:21 55:1,3,6
election 72:4	27:8 31:12	43:18 44:9	55:8 58:8,18
73:1 74:7	53:21 69:19	45:5,13 47:3	59:6 64:11,23
80:23,24 81:15	71:13,14 78:21	48:5,17,18,22	europe 15:21
81:23 82:6	87:13 89:16	49:21	55:21
83:4,8,20,22	enable 67:23	equitably	evaluating
83:25 84:1,12	enabled 68:1	45:18 52:7	71:10
84:14,22,23	70:9,10	66:13	eventuality
85:1,5 89:8	encourage	equity 81:17	19:10
elections 2:3,5	42:21 78:14,16	83:9,15,15,16	everybody
72:3 80:23	endeavoring	equivalent	19:7 21:23
86:8 88:3	19:6 31:17	16:16 17:19	32:17 37:14
elena 9:12	enem 5:1	58:18 85:24	59:19 68:3
eligible 2:4	engel 6:7	erroneous	82:4
13:6 20:9,21	english 34:6	81:23	everybody's
20:25 21:11	82:18	erroneously	80:24
32:18 33:6	ensure 33:12	82:20	evidence 30:18
48:8 78:18	46:5 47:3	error 29:18	exactly 39:21
elimelech 6:4	48:17 52:20	60:21,21	79:15
ellen 10:18	enter 48:5	especially	example 17:14
ellis 3:15 12:16	entire 13:25	12:25	44:23 45:4
45:16 46:4	22:8 43:7,13	essentially	68:15 89:3,12
47:17 48:7	entirely 62:4	24:22	excellent 60:20
52:19 73:21	entities 35:22	establish 49:5	excess 56:17
ellis's 44:12	37:11	established	exchange 57:6
elvin 9:22	entitled 17:14	49:8 73:21	57:11
email 21:23	39:7 59:8	estate 58:12	exercised
27:1 28:20	79:23	59:21	48:22

expect 31:18 68:1,13,16 expectation 62:12 expected 41:16 44:17 expense 78:15 expensive 18:17 38:1 71:11 experience 63:1 experiencing 42:23 explanation 30:9 explicit 84:8 exposure 77:25 78:1,5,7,10,17 79:18 80:3,8 extended 71:5 extent 13:12,21 ezra 9:14,25 65:21	failing 48:16 52:5 failure 29:2 fair 45:19 46:6 48:22 49:18,20 52:20 fairly 37:10 45:9 52:21 70:13 fall 71:24 72:7 72:15 fallen 40:25 false 43:14 familiar 90:5 family 43:1 63:2,5,15 faq 21:25 53:21 faqs 21:23 23:7 25:23 74:19 far 22:12 26:11 77:6 farooq 6:9 fear 41:12 february 29:7 32:2 48:24 71:6 73:19 federal 37:4 feedback 32:16 feel 22:4 42:15 44:9 47:10 48:15 65:5 74:18 feeling 12:6 feels 12:20 fewer 28:6,7	fiat 23:22 24:8 26:15 27:16 30:9 31:25,25 32:14,18 35:9 35:10,13 38:11 38:19 40:9 68:5,6 fiduciary 44:8 52:4,5 fifty 85:2 figure 36:20 37:25 file 19:5 83:2,4 88:4 filed 19:4 20:1 20:13 21:24 25:4 48:7,24 61:3 84:12,25 filing 44:12 46:10 60:4 89:20 filings 22:1,14 53:23 60:3 72:23 73:7,10 fill 34:3 final 83:22 finally 56:19 69:17 finance 58:21 financial 43:3 47:7 find 21:17 22:4 44:10 78:24 fine 19:23 60:22 62:24 finish 19:18 64:3	finished 90:10 firms 85:24 first 19:19 22:2 23:20 28:24 29:6 31:11 34:16 40:21 42:5,11 50:22 51:25 53:5 54:6 62:19 67:1 77:3 81:25 82:19 89:14 five 28:4 49:6,9 61:12 fix 87:1 flagged 65:1 flagstar 32:2 flip 67:21 flood 27:23 florent 5:20 flowets 6:10 fluctuate 17:10 17:11 fluctuates 16:18 fluid 18:17 flying 25:19 focus 26:3,3 focused 26:7 85:12,15 foianini 6:11 71:17,22,23 72:22 73:5,11 following 42:13 66:25 79:1
f			
f 1:21 8:23 31:9 55:17 71:20 92:1 faced 80:8 facilitate 58:13 fact 16:25 66:9 66:22,23 fahey 6:8 fail 24:1 failed 21:20 23:14 27:18 51:18			

follows 56:6 72:14 footnote 20:19 forced 52:12 forego 81:17 foregoing 92:3 foreign 85:25 foreseeable 67:3 forget 81:24 forgiven 57:6 forgiving 57:10 forgotten 90:3 form 25:23,24 34:3,7,16 47:15 48:15 formed 77:9 formerly 68:2 forth 23:8 forward 79:8 79:20 fought 38:2 found 15:6 42:18 51:4 four 22:15 28:4 30:5 43:6 fourth 52:13 frances 7:2 franco 6:15 frankel 6:12 frankly 31:1 33:25 41:15 freddy 5:14 free 22:4 53:25 65:5 74:18 frequent 26:24	friends 12:9 front 15:2 48:19 81:25 frozen 37:16 frustrated 63:9 frustrating 40:5 frustration 18:8,19 39:23 ftx 13:18 full 29:21,24 fully 14:22 15:7 28:17 38:16 50:25 72:6 fun 12:11 funck 3:7 55:15,17,18,19 55:20 57:3 59:15,22 60:8 75:19 fund 63:14 fundamental 51:25 funds 43:6,12 43:14 44:2,3 45:2 49:15 50:15 51:7 56:15 63:17 66:8 85:20 further 59:10 60:25 78:19 79:6,8 future 18:10 63:15 86:15 futures 43:3	g g 4:17,20 10:10 12:1 gallagher 6:14 64:8,9,10,19 65:13,19,20 garcia 6:15 geary 6:16 general 37:21 71:24 72:7,13 72:16 generally 62:15 geoghegan 10:18 george 3:13 52:25 gergi 7:6 getting 16:25 31:4 34:1 38:11 39:25 43:17 47:14 64:15 69:21 71:12 gheorghe 6:13 give 12:23 13:7 13:11,22,23 14:12 16:1,5,6 16:15 17:17,18 23:21 24:5,12 27:22 30:10 35:5 36:4,14 36:15 40:9 41:2 45:15 56:10 58:6 59:3 61:15 67:24 71:6	73:2 84:2 given 12:25 18:15 24:25 63:20 66:8 80:19 giving 40:1 46:19 58:9 78:5 glenn 1:22 go 12:14 15:9 19:23 20:15 21:12 26:19 28:4,6 29:18 30:22 33:16 34:19 36:16,18 37:22 46:22 50:3 54:4,12 55:19 56:23 60:11 62:20,22 64:9,17 65:24 67:22 70:3 71:11,21 75:17 76:15,16,17,17 79:19 80:13,16 goal 26:24 god 33:22 goes 28:19 30:9 49:16 55:8 69:19 going 12:24 16:11 19:16 20:3,7,23 24:8 24:11 28:23 31:15,19,20,21 32:22 33:9 35:1 38:7,9 40:2 41:23
--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

44:25 58:12 59:20 61:23 62:8,11,15 65:14 68:6 69:20 70:2 71:15 73:15 84:2 85:19 golic 20:1,3 73:20 golshid 10:8 good 12:3,5 25:20 28:7 36:18 39:8 53:2 60:12 76:20 87:9 gorrepati 10:19 gotten 31:12 39:19 48:4 60:4 61:14 government 37:7 grant 49:21 85:12 granted 41:14 89:14 91:5 granting 2:5 great 18:4 19:11 29:1 42:22 83:20 greatest 27:24 green 1:12 4:4 gregory 8:23 group 42:17 60:17 77:24 88:15	groups 13:20 growing 45:11 grown 78:12 guarantee 68:7 guaranteed 81:1 guess 74:13 guilty 75:14 guohua 10:5 guyader 10:13 guys 60:13 h h 7:11 76:18 haircut 81:13 half 15:20 19:1 26:25 30:16 36:10 38:25 43:9 56:11 68:21 81:7 hamilton 4:3 hand 40:11 88:12 90:8 handling 51:5 76:25 hands 21:5 42:1,2 88:24 happen 65:3 happened 54:9 happens 79:24 happy 22:5 28:21 57:1 58:13 75:24 87:25 haqqani 6:17 hard 25:6 43:12	harder 38:2 harm 52:15 harrison 10:20 hayes 6:18 headline 48:20 health 43:11 hear 19:19 33:10 42:4 47:12 49:24 55:18 62:21,23 62:24 65:22 73:15 88:1 heard 41:23 42:6 43:19 47:12 53:13 64:20,25 75:6 75:21,24 76:1 76:1 87:4,7 88:11,23 hearing 2:1,1 12:9 22:7 42:11 60:3 64:4 74:24 87:17 89:7 90:11 hedge 18:17 hedges 18:18 hein 10:15 held 13:15 72:10 hello 46:18 50:4 55:18 88:14 help 21:24 27:12 31:14 55:10 58:9,10	helpful 62:5 87:20 hernandez 6:19 hershey 6:20 76:5,9,10,11 76:16,18,20 79:10,12,15,21 79:25 80:10,13 80:14,16 hesitant 41:11 hesitate 16:19 hi 42:9 69:1 71:22 82:4 high 29:15 31:8 highlight 63:8 63:11,17 88:15 88:17 highlighted 89:7 hit 31:19 hittelman 6:21 hitti 6:22 hoc 13:20 holders 77:13 holding 23:25 24:25 57:7 holloman 6:23 6:24 hon 1:22 honest 82:14 honor 12:5,15 12:18 14:8 16:9 19:6,24 20:2,14,24 21:22 28:16
--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

31:7 35:18 36:13 37:4 40:13,16 41:3 41:8,18,21 42:9 45:10 46:7,18 49:18 49:20 50:4 51:13,24 53:2 53:13 55:20 57:1,17 58:2 60:12 64:10 65:19,23 66:14 66:20 69:22 71:22 73:17 76:11,12,14,19 76:20 77:3,9 77:16 79:8,12 79:15,21,25 80:2,11,14,18 81:25 82:1 85:14 86:24 87:9,13 88:5,9 89:15 90:4 honor's 12:22 36:1 67:12 77:4 86:7 hope 19:5,5 62:4,10,16 63:25 65:3 67:25 73:3 hopeful 68:21 hopefully 58:10 68:22 hoping 41:18 house 4:3 huge 44:6 48:12	humanly 19:3 hundred 40:23 43:19 57:8 60:22 65:10 hundreds 15:11 hybrid 2:1 hyde 2:25 92:3 92:8 i identify 42:2 53:15 ii 2:4 5:3 iii 2:5 il 3:18 illustrate 20:2 imagine 30:14 33:15 immediately 70:10 impact 85:11 85:13 impacted 50:17 impartially 45:9 implications 16:20 important 15:1 15:5,15 17:6 22:14 23:14 24:17 25:1 31:24 60:24 85:14 importantly 83:22	improve 25:5 25:18,21 26:23 improved 27:20 inability 47:18 inadvertent 80:22 include 37:18 77:24 includes 14:23 26:15 including 38:14 45:6 49:17 77:6 78:11,19 89:25 income 63:6 inconsistent 52:8 increase 77:13 increased 51:2 incredibly 14:14 incurs 78:15 independent 87:16 indicate 42:5 52:9 indifferent 39:13 50:13 indiscernible 44:13 45:8,17 46:24,25 48:12 48:23 49:10,19 51:5 53:4,5,6,8 53:9 54:8 56:8 56:9,9,15,16 56:17,21 63:7	63:10,18,19,20 64:6 66:5,24 69:15,18,20 72:12 77:7 84:17 88:6 individual 13:20 23:2 26:1,6,6 35:22 35:23 51:19 52:10 60:14 66:21 68:11,13 individualized 21:12 31:22 74:17 individuals 36:13 37:10 40:19,19 77:22 86:1 indulgence 12:22 76:9 inequitable 44:24 50:9 59:24 82:19 inequitably 19:13 inequity 42:23 inexpensive 32:18 information 17:25 23:15 24:18 27:22 34:2 61:2,11 61:15 78:25 informed 47:14 77:16 85:5
---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

ingo 4:22 initial 32:16 55:5 82:14 initially 29:10 40:24 50:13 inquiries 25:8 25:9,13 26:7 instance 51:1 82:12 instantaneous 74:15,21 instructions 21:18 22:19 33:8 34:11 35:7 60:25 intend 51:15 63:15 80:5 intends 79:22 interesting 23:23 37:19 international 15:17 33:6 63:4 69:5 82:18 internationally 69:7 introduction 80:19 investigated 22:23 investigating 77:13 involve 48:1 iovine 6:25 ira 49:14 iras 43:5,7	irony 32:4 issue 22:24 23:24 26:6,6 33:10 64:2,6 65:6 82:1 85:9 85:10 86:14 89:1,1,6,7,8,9 issues 12:24 13:25 26:3,3,4 28:7 33:12 47:7 50:21 51:2,24 60:6 61:21 63:11,12 67:3 68:2 72:22 76:8 80:21 86:23 87:12,22 89:19 89:22,25 itart 7:1 item 76:2	86:9 jarno 10:9 jason 6:25 jay 8:3 jeff 8:21 jeffrey 4:21 6:5 jennifer 7:18 jerome 6:2 jin 4:12 66:19 johan 5:2 johanna 6:24 john 6:3,22 7:11 8:12 9:24 jonathan 9:1,4 10:23 jones 7:2 jose 4:19 joseph 7:22 9:7 joshua 5:10,18 journal 15:3 judge 1:23 12:13 40:11 53:25 63:18 64:5 88:12,14 90:6,8 judgement 48:22 july 54:25 55:2 jurisdiction 15:16 jurisdictions 14:23 15:8,21 justice 4:1 45:7 justifies 19:12	k k 7:19 8:4 55:17 kahn 7:4 kaitlyn 6:21 kaplan 7:5 kass 7:6 kaufmann 7:7 keck 3:11 42:17 47:13 49:25 50:3,4,5 keeney 7:8 keep 33:9 42:3 63:16 67:18 77:16 84:13 keith 8:17 10:4 keller 7:9,10 kevin 8:5,10 khan 7:3 kicking 39:15 kind 60:17 62:2 63:9 67:8 kindly 45:17 kinds 67:5,6 kirkland 3:15 12:16 44:12 45:16 46:4 47:17 48:7 52:19 53:17 57:2 69:4,13 73:8,21 kirkland.com. 53:23 73:9 knab 7:11 knauth 10:21 knew 17:9
-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

know 13:19 14:23 19:6 22:2,14 23:19 25:12 27:4,18 28:10,18 29:4 31:7 34:17 38:21 39:22 41:13 46:19 54:2 56:11 59:5 62:13 63:18 68:18,19 68:20 72:15 79:23 82:25 85:24 86:13 87:4 knowing 43:11 knowledge 70:4 koenig 3:20 12:4,5,8,12,14 12:15,16 16:24 19:21,24 20:11 20:14,16 21:22 22:9,13 23:6 23:13 24:16,20 25:3,16 26:12 26:15 27:18 28:13,15,18,25 29:2 33:14,20 33:22 34:5,12 34:15 36:5 37:4,12,19,23 38:11 39:21 40:13 41:21 46:13 47:2,23 51:1,7,11 53:13,16,16	54:9,11,13,13 55:12 56:2 57:1,2 60:2,7 60:12 62:3,3 63:1 64:17,19 64:19 65:16 66:10,16 67:10 67:10 68:12,23 69:24,24 72:18 72:19,19 73:7 73:11,19,23 74:3,6,6,25 75:2,10,13 76:4 80:17,18 84:18,21 85:14 87:6 89:5,15 89:24 koenig's 44:1 45:14 76:23 77:2 kouly 7:12 krill 7:3 ks 1:25 kusters 7:13 kwasteniet 7:14 kyc 14:24 21:10 22:18,25 28:14 29:4,13 29:19 30:4,7 31:3 36:12 37:13 47:23,24 60:20,22 61:21 63:4,12 69:11 kyc'd 28:17 29:2	kyle 4:24	leading 77:21
		l l 9:20 lackey 7:16 lafayette 5:15 landed 38:4 lang 7:17 language 34:6 82:19 large 24:18 30:20,22 40:22 64:23 86:23 largely 28:1 43:9 larger 15:20,21 15:22 86:5 largest 14:18 larkin 7:18 larkson 7:19 lasalle 3:17 latest 27:24 latona 7:20 lau 7:21 laundering 14:24 laura 3:9 42:7 42:10 lauren 9:19 law 45:9,19 51:25 85:25 laws 70:17 lawyer 36:20 37:24 81:11 lawyers 30:14 layla 8:15 lays 20:16	learn 82:8 leaves 26:13 ledanski 2:25 92:3,8 legal 16:19 92:20 legge 10:22 lehrfeld 7:22 lender 58:22 59:1,3,5,5,6,11 59:12 lenders 40:20 58:24 leonard 7:23 7:24 letter 42:20 53:10 55:22 79:4 84:5,6,25 letters 18:23 22:22 24:10 25:22 35:19 38:21 41:4 87:5,15 levels 36:22 licari 7:25 license 15:24 36:15 life 43:8 light 89:13 likely 67:5 78:21 limited 39:9 40:3 48:5 78:14 79:11 lin 8:1

line 17:1 28:11 74:16 75:24 91:4 links 21:23 29:5 liquid 44:15,16 81:2,3,6,18 83:14,17 86:9 86:19,25 liquidate 44:25 liquidated 51:8 52:14 69:13 liquidation 52:13 lisa 7:17 list 22:11 30:7 36:17 45:11 listed 87:5 listen 75:16,24 listening 19:6 22:4 26:21 76:23 literally 30:1 litigate 20:23 85:19 litigation 72:21 76:5,21 77:7 77:12 78:15 79:20 80:4,5 little 16:11,22 16:24 27:5 28:8 29:25 31:16,20 35:10 36:10 68:19 81:13 83:4,6 live 15:23 31:14 32:20,23	39:23 lived 16:7,9 17:17 31:13 livelihood 43:10 lives 68:12 living 33:17,18 liz 9:5 llc 1:7 35:22,23 36:19,21 37:23 37:24 66:1,7 llcs 35:21 43:6 49:14 llp 3:15 loan 46:25 56:4 56:7,7 57:5,9 57:10,23 58:1 58:5,15 59:3,5 59:9 73:18 74:3 89:25 loans 40:16,18 56:9 66:2 loc 76:21,24,25 77:4,8,9,11,15 77:18 78:3,5 78:15,16 79:3 79:7,21 loc's 77:6 logistical 49:2 logistics 47:8 lonely 12:6 long 31:24 58:17 longer 57:5 longest 80:19 longueville 7:1	look 17:12 21:17,20 24:21 25:2 65:6,16 65:17 74:7 81:22 looked 29:14 38:25 62:13 74:9 looking 22:8 looks 79:7 lorenz 10:2 lose 26:20 56:5 85:20 lost 12:9 32:4 71:14,15 lot 24:10,10 26:13 27:9 28:10 30:12 77:11 82:7 86:20 lottery 39:6,6 loud 32:7 love 36:19 lower 27:10 28:2 44:22 lucy 9:20 luke 9:16 lupu 7:15	45:18,21 46:2 47:5 49:5,6 57:15 79:19 81:23 82:5 83:9,12 84:9 86:16,23 main 40:18 major 13:25 majority 25:24 42:25 make 12:11 13:4 14:2,3,20 16:13 17:7 18:24 22:16 26:23 28:14 34:16,20 35:13 36:22 38:23 40:7 59:24 61:9,19 67:7 70:18 72:25 83:8,25 84:23 85:3 87:6 makes 12:23 84:3 making 13:18 14:2 27:15,17 27:21 30:1 71:1 malhotra 8:4 manage 43:4 management 16:4 manages 66:2 manual 31:15 67:21 manually 67:23
		m	
		m 5:21 8:5 9:10 maan 8:2 maarten 8:2 macelhenney 8:3 made 18:2 20:3 25:12,13,15 27:9,11 30:11	

manus 8:5 march 1:15 47:18 61:4 72:1 92:25 maree 8:6 marek 9:23 marjorie 6:15 mark 4:8 7:23 8:14 9:3 60:10 81:16 85:2 market 44:17 44:20 45:23 46:3 52:11 55:9 56:10 58:11 59:20,23 marsh 8:7 martin 1:22 8:11 master 16:4 masumoto 4:9 match 45:24 matches 28:14 materialize 49:4 materially 50:17 89:11 math 81:11 83:7 matter 1:5 matters 63:1 88:1 matthew 9:15 maude 11:2 maunder 8:8 mcanespy 8:9 mccarrick 12:8	mccarthy 8:10 mcneil 3:9 42:7 42:8,9,10 46:14 47:12 49:12 mcneill 8:11 mean 12:11 25:20 33:14 44:7 58:9 59:19 62:12 65:14 70:4 means 21:4 23:15 57:5 media 42:19 meet 30:7 86:11 mellein 8:12 member 49:14 63:5,15 66:1 85:8 mental 43:11 mentioned 51:1,7,11,13 52:19 56:1 90:3 mentioning 63:2 mercuri 8:13 mercy 49:20 mg 1:3 michael 5:3 9:8 microphone 75:9,10 middle 86:18 migrate 23:20 32:11 62:9	migrated 30:8 migrating 62:6 mike 10:22 milin 8:20 miller 8:14 60:10,11,12 62:1,2,3 milligan 8:15 million 36:2,6 37:16 39:3,4 45:16 52:20 57:9,10,12 58:4,5,6,7,15 59:4,6,9,9,12 59:12,13 82:2 82:20 85:22 86:9,12,19,24 mind 39:25 mine 49:17 mineola 92:23 miningco 19:20 41:5,9 81:17 86:13,14 minutes 77:5 mira 6:17 miscalculation 47:8 48:12 mistake 82:14 83:5,10,12 86:16,23 87:2 mistaken 2:3 83:3 88:3 89:8 mistakenly 72:3 misundersta... 29:16	mole 26:5 moment 14:13 20:10 26:19 29:11 56:10 monday 29:21 42:21 money 14:24 32:9 37:5 39:19 59:5 monique 6:18 monitor 87:22 month 18:25 31:19 48:3 68:21,21 73:25 months 14:14 43:24 44:23 74:3 moore 8:16 morning 12:3 12:5,21 47:5 53:2 60:12,13 76:20 78:3 80:2 87:9 morning's 40:15 mortgage 63:10 motion 2:2 12:21 19:2,4 40:15 41:19,23 63:19,22 80:19 83:2,3,4,6,18 84:4 85:7,10 85:12,17 88:2 88:3,9,11 89:11,14 91:5
--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

motions 89:21 move 24:2 76:2 83:20 moved 16:9,22 16:24 32:8,23 61:23,25 movement 16:11 moving 33:3 62:15 multiple 61:12 67:14 mute 75:14 muted 75:10	33:1 34:4,8,19 36:22 49:19 58:14 65:16 67:22 76:13 89:19 needed 29:22 negative 57:22 negligent 44:10 negotiate 59:1 negotiated 36:24 negotiating 14:15 negotiations 38:2 neither 61:5 net 43:13 59:21 network 1:7 neutral 58:12 59:21 never 19:4,5 29:12 44:24 66:8 82:10 83:8 new 1:2,13 4:5 27:1 28:5 32:10,11 37:16 49:7 59:3,4,11 61:15 78:24 news 18:4 19:11 nicole 7:24 night 20:2 nine 43:4 noah 9:10 non 35:21 43:2	normal 41:2 north 3:17 notably 77:24 notate 61:4 notated 61:5 note 78:13 79:3 notice 22:14 25:3 noticed 61:18 notices 71:11 71:13,14 notification 69:19 notifications 69:20,22 71:10 notified 61:7 88:18 notify 69:14 november 71:5 noyes 8:17 number 12:25 24:19 25:8 28:4 29:8,8,25 30:14 31:8,19 34:4 35:12 36:4,10,15 38:24 42:22 44:12 61:3 64:25 66:6 67:13 71:25 80:7 81:22 84:7,19 numbers 27:10 28:6 29:14 35:11 36:6 58:19 86:5	ny 1:13 4:5 92:23
o			
o 1:21 12:1 31:9 71:20 92:1 objection 84:11,12,16 88:4 89:13 objections 14:9 87:4 obligations 17:8 86:12 obviously 12:13 31:5 48:2 65:16 71:11 82:13 83:12 occurred 26:11 offer 78:4,9,13 78:18,20,23,25 79:11,18,24 offered 14:6 64:23 73:1 office 87:10,22 official 61:11 oh 18:8 33:22 39:5 41:5 76:16 okay 14:3 23:12 31:23 35:8 37:14 40:10 46:23 60:7 61:17 62:25 63:24 64:5 65:19 66:18 74:23			

90:5 old 92:21 oligarch 15:4 36:18,23 onboard 21:20 66:11 onboarded 66:12 onboarding 23:14 24:1 47:20 once 26:4 68:18 73:15 75:20 ones 31:12 60:17 61:13 ongoing 41:6 41:11,15 87:12 online 32:13 oona 5:17 open 29:5,18 31:2 79:4 opened 29:23 opening 44:1 45:14 operational 74:1 operator 43:6 opportunity 34:24 46:19 78:6,14 opt 20:22 65:10 72:3 84:13 opted 65:13 85:18	option 40:16 44:15 57:4 64:23 66:8 optional 2:4 options 57:4 58:14 order 2:2 42:2 45:18,20 60:2 70:8,9,11 71:4 organization 15:4 organizations 37:7 originally 50:12 69:10 oswald 8:18 ought 60:5 outdated 52:12 outlines 42:22 outside 32:20 38:19 48:6 61:11 outstanding 28:2,7 29:22 29:24 65:2 overage 24:11 59:8 overall 26:10 overhauled 32:15 33:3 35:12 overseeing 77:8,19 oversight 76:21 80:4 overwhelming 25:7 57:14	owe 57:5 owed 57:9,9 own 32:4 34:18 48:21 52:8 owned 49:14 owner 66:1 owns 46:24	33:21 44:10 45:1 47:7 51:5 51:9 52:6,15 69:6 partners 14:19 14:20 15:7 27:16 47:7 party 48:1 58:22 party's 83:5 passed 73:25 past 23:17 pasted 61:14 patel 8:20 10:14 path 28:21 patience 53:3 patiently 42:14 64:15 patrice 84:17 patton 8:21 paul 4:25 8:9 9:18 pay 44:21 56:4 56:7 59:12 payment 48:15 78:20 paypal 14:17 14:18 15:16 21:6,11 23:9 23:16,17 24:8 24:14,24 26:18 27:16,21 28:8 30:9 51:20 53:19 60:16,19 60:20,22,24 61:5,8,22 62:7
		p	
		p 3:1,1 6:20 8:19 12:1 page 15:2 78:24 91:4 paid 50:17 paolo 5:8 paper 69:18,22 71:9,11,13,13 pardon 33:20 parents 43:7 43:12 45:6,10 49:15 parpart 8:19 part 13:3 14:10 20:25 37:15 48:13 57:17 participated 42:11 particular 48:10 62:13,14 63:14 67:24 74:9 particularized 65:17 68:2 parties 19:6 37:18 41:8 78:14 87:23 partner 15:25 32:9 33:17,19	

62:10,15 64:12 68:15,18 69:6 70:1 74:1,4,10 paypal's 21:13 peak 15:10 pederson 8:22 pending 88:9 88:11 89:21 people 13:4,14 14:12,21 15:12 16:14 19:3 20:9,17,21,22 23:10 24:23 25:17,23,25,25 26:2,4,24 27:21,23 28:7 28:10 29:8,9 29:10,16,17 30:8,17 31:4 31:13,18 32:23 32:25 33:6,9 34:1,14,18,21 35:1,13 38:8 38:21 39:2,23 39:25 40:25 42:3 45:8 56:3 56:12 62:6,9 64:20,23,25 67:22 70:11 71:6,12 73:15 74:20 75:20 79:23 81:16,19 81:22 82:2,3,7 83:10,18,23 84:9,9 85:18 86:16,17,20 87:6 88:16,17	percent 15:13 15:14 16:12 21:6,8,9,19 22:17 23:14 26:10,13,17,17 26:18 29:25 30:3,3,5,24,25 31:9,10,11,19 32:19 36:10,11 44:4,5 49:9 51:12 55:5 56:22 57:8 60:22 65:10,13 65:14,15 72:17 77:23 78:7 81:2,7,10,14 82:6,17 83:16 88:19 percentage 30:2 percentages 20:8,8,18,21 perfect 16:8 perfectly 60:22 period 58:17 78:8 periodic 29:20 permission 77:5 perry 6:23 person 31:15 35:24 36:17,20 42:5 72:24 73:13 75:17,18 84:14,22,23 person's 26:5,6	personal 63:1 personalized 26:22 personally 43:4 perspective 70:16 pesce 8:23 peter 6:3 petition 17:22 54:18,25 56:21 77:21 philips 8:24 phone 13:1 30:14 picking 50:25 pietro 7:25 piotr 9:23 place 16:10 17:17 24:21 25:1 37:1 51:9 61:17 plan 14:11 16:14 17:1,8 18:1,22 19:14 19:14 24:4 25:20 32:17 38:13 40:1 49:2 54:15 55:3 57:4,25 58:20,23 59:19 62:9,14 72:5 78:1 86:12,15 89:2 planned 77:10 platform 67:13 70:22	playing 26:5 please 12:3 29:18 32:22 39:13 49:20 55:13 60:25 65:5 71:19,21 74:3 pleased 27:8 78:3 plus 59:13 pm 90:13 point 17:2 19:2 20:24 23:2 36:24 38:6 49:11 53:12,14 74:19 88:17 89:7 pointed 25:23 66:10 points 37:12 portion 64:4 position 88:7,8 88:20 possible 14:12 14:21 17:10 19:3 25:17 31:8,9,18 34:21 38:4 42:3 44:18,21 45:2,22,24 49:1,3 post 2:1 12:16 32:24,25 59:7 61:8 72:10,20 79:6 posted 79:3
-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

<p>potential 14:15 33:11 79:18 89:8</p> <p>potentially 88:25</p> <p>power 13:15</p> <p>practical 48:13</p> <p>predicament 60:18 61:14</p> <p>predominantly 21:7</p> <p>prefer 83:14 83:15</p> <p>preference 72:22 76:8 77:7,20,25 78:1,5,6,8,10 78:16 80:3,8 85:25</p> <p>preferential 44:7</p> <p>preferred 58:13</p> <p>prematurely 52:14</p> <p>preparation 15:10</p> <p>prepare 19:9</p> <p>prepared 34:10</p> <p>preparing 14:14 15:11</p> <p>prepetition 14:6</p> <p>present 4:11 20:4</p>	<p>presentation 20:16 38:18 76:23</p> <p>presenter 20:4</p> <p>preserve 84:12</p> <p>presumed 2:3</p> <p>pretenses 43:14</p> <p>pretty 22:1 82:16</p> <p>prevailing 44:17,20 45:23 46:3 52:11 58:11 59:20</p> <p>prevent 37:5 67:3</p> <p>prevented 51:10</p> <p>prevents 37:2</p> <p>preview 19:25</p> <p>previewed 80:20</p> <p>previous 52:19</p> <p>price 16:18 17:12 18:3,17 24:25 40:8 44:5,17 54:7 54:19,23,23,23 59:23</p> <p>prices 17:20,21 18:12,13,25 24:10 39:16 40:8 43:23 44:6,21,22 45:23 48:20 50:14,20 51:21 52:11,12 54:21</p>	<p>56:8,9,10 58:11 59:20 73:23 86:10</p> <p>pricing 56:17</p> <p>primary 50:21</p> <p>principal 34:6 40:17</p> <p>principles 51:25</p> <p>prior 23:19 87:17</p> <p>pro 3:3,5,7,9 3:11,13 30:15 62:21 63:19 82:25</p> <p>problem 22:21 23:8 28:22 31:11 33:5,25 37:21,21 75:8 82:25 86:13</p> <p>problems 31:11,21,22</p> <p>procedure 2:4</p> <p>proceedings 90:12 92:4</p> <p>proceeds 24:5 30:11 52:10</p> <p>process 12:19 12:24 13:3,10 14:10 19:7 21:10 22:18 25:5,7,21 27:13 30:19,24 31:15 32:16 33:15,25 37:13 38:1,22 40:2,2 41:7,24 42:15</p>	<p>44:24 47:20,24 48:2 58:16,25 59:17 60:21 62:6 67:20,21 67:24 68:20 70:3 71:12,15 74:14,14 76:8 77:1 79:5,6 80:4 82:15</p> <p>processed 74:8</p> <p>professionals 77:15</p> <p>progress 27:9 27:11 30:1,12</p> <p>progresses 77:17 79:9</p> <p>projected 81:6</p> <p>prominently 22:2</p> <p>promptly 25:17 27:24 53:24 62:16 73:23 74:20</p> <p>proper 33:13 51:9 67:18</p> <p>properly 30:4</p> <p>property 70:15 70:25</p> <p>proposing 83:10,17</p> <p>provide 24:24 63:6,6 76:7 87:23</p> <p>provided 23:15 24:17 29:23 54:15 55:3 58:20 59:20</p>
-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

87:19 provides 16:14 24:4 providing 79:8 purpose 77:11 81:15 purposes 53:6 54:8 pursuant 54:18 pursue 72:22 80:5 pursuing 77:14 push 26:1 65:7 put 22:7 23:8 34:18 43:13 72:24 73:4 putting 86:21 87:20	quicker 27:13 quickly 19:15 28:9 31:18 76:4 78:17 quite 27:11 30:21 33:8 41:3,4	38:21 42:22 46:9 82:16 real 27:22 realized 67:16 81:22 82:24 really 15:1 34:19 39:14 49:19 64:16 69:18 76:4 89:12 90:2 reason 13:10 17:19 23:16 27:19 38:14 40:18 43:16 47:18 48:13 49:4 51:3 61:5 64:21 65:1 67:14 68:5 83:14 reasonable 58:23 reasonably 45:9 49:1,3 reasoning 50:25 reasons 15:15 56:2 reattempt 27:4 reattempting 62:8 rebecca 6:14 64:8 recall 40:16 receipt 87:12 receive 13:7,9 13:13 17:15 20:9,22 21:1	24:1 25:13 27:4 32:18 33:6 34:24,25 35:5 36:8 39:8 43:20,22,24 44:13,16,20 45:22 46:5 48:9,10,11,15 50:11,24,24 51:17,20 52:9 52:10,22 53:9 56:13 60:16 61:18 64:22 65:3 66:8 67:2 67:5,6 68:7,8,9 68:16 72:16 74:4 82:21 83:24 86:15 received 18:5,5 18:7,9,9,20 22:19 25:11,14 25:15 27:1 28:20 44:3 46:2,3 53:19 54:1 61:2,11 64:11,12,20 65:4 71:25 73:25 74:2 78:21 81:10 83:24 84:4 87:5 receives 21:23 receiving 35:13 42:23 45:25 50:15 53:8 67:4 78:19
q	r		
qiang 8:25 quarters 31:1 question 39:5 53:7,24 54:1,6 54:22 55:10 56:22 62:4 70:20 72:14,25 72:25 73:4 86:7 87:25 questions 27:23 28:6 53:4 60:4 66:25 69:2,25 74:17 78:22 queue 25:9 quick 19:22 23:11 28:10 31:8	r 1:21 3:1 7:17 12:1 62:19,19 92:1 raise 50:8,22 raised 28:11 40:11 42:1,2 89:14,22 raising 80:1 rakesh 10:14 ralph 5:3 75:4 75:23 ramp 35:8 ramped 82:24 ran 29:21 83:7 randles 10:23 rate 46:3 rather 26:4 35:23 60:3 67:8 78:10 83:16 reach 22:4 61:16 reached 74:17 87:17 reaction 82:14 read 15:2 18:23 20:20 22:22,22 35:18 36:21 37:24		

recent 44:12 48:20 50:16 51:10 recently 30:12 32:23 recipients 37:6 reclaim 80:5 record 12:15 16:7 17:2,4 36:25 72:5 92:4 records 54:3 82:11,12 recoveries 77:13 81:6 88:19 recovery 57:8 81:7 85:6 86:15 reduce 57:6,11 80:25 81:9 85:6 reduced 81:2 86:21 reference 37:1 refile 25:4 53:20 refinance 40:17,20 56:8 56:17 58:14 59:17 refinancing 56:2,3 58:25 reflect 82:12 regarding 33:12 77:6,7 78:22,25 79:4	regardless 28:24 regards 42:23 regime 37:1,8 37:22 regimes 37:7 register 21:10 regular 31:4 66:3 74:10 regularly 32:24 regulations 14:13 37:5 regulatorily 13:24 15:7 regulators 13:25 14:7,9 15:6 70:18,19 regulatory 14:22 38:16 51:2 70:15 reilly 10:24 reinvested 39:20 51:14 reiterate 49:12 reiterated 87:15 rejected 72:5 related 2:5 relationship 59:10,11 relatively 39:2 relatives 49:15 release 86:2,5 86:8 released 78:1,4	relief 2:6 76:24 83:1 84:7 rely 27:17 remain 41:6,15 remaining 21:8 30:3 31:1 76:2 remedy 45:16 56:16 remember 14:8 36:7 81:23 remind 31:5 reminder 61:5 reorganization 77:11 repaid 57:23 repay 58:1,6 report 27:9 reported 80:21 represent 41:9 41:10 43:1 47:13 70:22 72:20 representing 42:17 60:17 66:1 represents 76:5 request 45:17 50:12 69:21 87:18 requested 47:16 84:7 requesting 45:20 requests 26:21 46:5	required 45:19 63:5 requirement 47:20 requirements 14:22,24 15:1 requires 40:1 rescind 82:5 83:3,19 84:22 85:1 rescinded 83:25 84:1,17 rescinding 88:19 rescue 63:16 resending 65:2 reserve 17:8,9 17:15,16 reserved 16:13 17:19 38:19 reserves 85:10 85:17,21 86:1 86:2,5,10,11 86:25 resident 60:15 resolve 26:4 resolved 78:1 resoundingly 47:4 resources 39:9 40:3 respect 37:9 72:12 79:17 88:2,7,8,11 respond 23:2 25:17 27:13 46:10
------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

response 61:15 62:5 66:17 73:3 responses 25:23,23 26:22 84:4 responsibility 44:8 responsible 76:24 rest 19:20 33:16 41:9 50:24 restricts 37:9 result 48:4 retail 30:20 retained 45:16 retirement 43:1,6,9 49:15 63:7 66:2 retrieved 74:2 returned 37:17 returning 70:25 78:11 reverse 72:2,15 reversed 74:7 review 90:1 reviewed 22:24 revocation 2:3 2:4 83:11 86:17 revoke 86:7 88:3 richard 8:18 8:24 rick 10:16	rickie 5:7 riecce 3:11 42:17 49:25 50:4 right 12:11 20:5,8,18 23:1 23:3,6,10 25:16 26:15 28:18 32:21 34:1 35:16 36:21 42:8 46:9,14,15,23 50:1 53:1 54:9 55:14 57:20 60:1,11 62:20 64:7,17 65:12 71:21 73:12 74:23 75:5,13 75:23,25 79:15 80:2,12 83:5 85:21 87:25 88:10,13,25 89:17,24 rights 86:15 riki 7:12 rise 12:2 risen 56:21 rishi 10:6 road 92:21 robert 7:7 roberto 6:19 robinson 9:2,3 rodrigues 9:1 rodriguez 9:4 rolled 28:5 room 4:4	ross 7:14 rough 58:19 round 34:17 route 23:10 78:25 routed 68:3 routing 34:4 rovira 9:5 row 31:25 rudge 8:11 rule 31:9 45:12 49:5,10 52:21 ruled 57:17 58:2 70:14 rules 37:4 rulings 91:3 run 36:16 39:6 39:6,16 running 32:3 runup 18:24 24:25 40:7 russia 37:1,9 37:17 russian 15:4 36:18,23 s 3:1 4:9 6:9 7:23 12:1 safe 43:15 safeguarding 43:3 sake 16:20 sakissian 9:8 sam 76:20 samuel 4:14 6:20	sanctioned 37:18 sanctions 37:8 37:22 sand 17:1 sandrana 9:6 santos 10:11 sarachek 9:7 savings 43:8 saying 24:11 26:2 32:21 35:2 40:6 60:24 86:4,4 says 19:14,14 20:21 28:20 29:2,3 36:17 58:23 84:16 scammed 23:18 scheduled 50:11 schedules 85:23 schneider 9:9 schottenstein 9:10 schroeder 9:11 scope 36:7 scott 6:1 scouts 89:3,12 screen 20:20 26:9 46:20,21 46:22 se 3:3,5,7,9,11 3:13 18:10 30:15 62:21 63:19 82:25
---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

search 22:8 seated 12:3 sec 41:8,13 70:22 second 22:3 34:18 53:7,14 61:20 66:3 67:2 secondly 51:7 52:4 secure 47:6 52:5 securities 70:16,17 security 32:5 33:12,15 36:15 see 18:10 24:22 25:2 28:24 30:2 35:11 39:24 42:1 46:20,21,22 64:17 69:4 74:13 75:7 88:24 seeing 61:11,23 seeking 2:2 seem 39:8 seemed 29:14 seems 71:12 82:13,19 seen 24:10 28:4 39:5 segregated 72:10 select 14:20 23:8 38:22	selected 14:16 43:19 44:14 48:14 57:14 selecting 44:6 85:5 selection 73:23 selezneva 9:12 self 43:5 sell 13:16 24:5 30:10 44:15 63:16 send 15:11 32:13,17,22 34:1 35:3,14 38:15 39:15 59:6 67:22 68:18 71:11,13 74:23 89:16 sending 37:5 74:9 sends 59:5 senes 9:13 sense 12:23 57:16 83:25 84:3 85:3 sensitive 26:7 sent 27:8 32:20 55:22 58:17,17 63:10 separate 60:3 63:22 serban 7:15 serrur 9:14 service 23:17 23:18 24:4 44:11 61:6 67:15,19 70:5	serviced 61:7 61:22 services 15:19 21:24 32:13 servicing 52:6 set 17:4,6 18:1 23:24 26:25 29:9 32:12 54:16,18,25 56:16 60:16 77:22 85:20 setoff 57:5,20 57:23 59:7 73:22,23 74:3 74:8 settle 56:7 78:6 78:10,14,16 settled 80:3 settlement 20:23 78:2,4 78:23,25 79:4 80:4 85:19 seven 40:22 43:4 82:2 several 21:24 36:22 37:1 severely 43:10 shara 4:7 87:9 shares 19:20 sharon 5:25 shawn 8:19 sheltered 43:13 shirley 5:6 short 42:19 76:22 shorthand 23:16	shortly 51:15 shows 39:17 shut 61:16 69:9 70:6 71:3 side 63:4,13 sign 36:14 59:1 59:2 signature 32:3 73:8 92:6 significant 33:24 35:25 50:15 82:24 86:10 significantly 17:23 44:22 47:21 78:12 sill 89:24 silverman 9:15 similar 50:13 similarly 30:2 52:2 simon 5:24 6:4 10:12 90:8 simple 32:19 57:15 70:14 simplicity's 16:20 simply 53:4 single 49:14 60:4 66:1 sit 33:23 situated 52:2 situation 27:5 56:5 62:14 64:11 89:12 six 40:22 77:10
-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

sixty 85:2 size 39:11 slated 13:4 slide 20:5 26:9 slides 20:1,4,13 slot 38:20 39:13 slots 38:23 39:7 slow 25:22 slower 31:20 small 20:20 35:25 39:2 40:21 74:2 77:22 86:20,22 smaller 15:23 smith 73:14,16 73:17,18 74:6 74:23 75:1 social 36:15 42:19 sold 13:17,18 18:20,25 40:8 44:25 45:3,24 51:21 52:18 sole 43:6 solei 7:19 solution 33:1 45:13 solutions 27:12 92:20 solve 31:12 33:5 solved 31:20 solving 26:5 31:10	somebody 17:14 21:4 22:7 23:18,25 24:7 31:2 35:15 39:7,13 80:24 85:4 somebody's 70:25 somewhat 50:13 sonda 5:12 sonya 2:25 92:3,8 soon 49:1,3 62:17 65:3 73:3 sophie 7:9 sorry 40:11 53:11,16 54:13 55:16 90:8 sort 20:2,6 22:21,24 25:18 26:5 30:2,7,13 31:9 38:17 40:17 55:8 85:11 sorts 17:12 21:1 31:5 sounds 68:12 74:11 source 63:6,13 south 15:23 southern 1:2 spam 65:1 69:20 spangler 9:16	speak 34:6 41:7,24 42:10 42:15 46:19 71:23 73:1,18 75:8 82:18 speaking 41:3 41:17 43:16 54:11,13 75:8 75:20 specific 37:20 specifically 45:20 78:5 88:2 specify 45:3 spell 71:18 spent 14:14 31:10 spike 48:19 spoke 47:2,22 47:23 75:18 84:21 spoken 73:13 staff 12:13 stage 48:19 61:10 stanbury 3:13 52:25 53:1,2 53:11,18,20 54:4,6,10,14 54:15 55:11 stand 40:1 standing 54:2 start 16:22 20:5 30:24 61:23 started 14:15	starting 61:19 67:16 state 48:25 stated 46:4 87:20 statement 14:17 38:13 44:1 45:14 81:5 statements 52:9 states 1:1,11 4:1 15:17 21:17 32:20 50:6 68:13 87:10,11 status 19:15,19 27:2,6 74:13 87:18 stay 77:1 steadman 9:17 steal 24:11 32:25 stealing 24:12 24:13 steps 19:9 25:18 27:3 stipulated 48:8 stock 41:6 69:16 86:13,14 stood 81:24 stopped 76:12 stories 32:15 storvick 9:18 strategy 19:12 25:18 26:23 28:5
------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

street 15:3	28:14 33:14	taken 19:9	64:5,6,7 65:18
stretto 61:13	35:13 36:22	25:18 37:15	65:19,20,22,25
78:23	40:5 53:11	59:16	66:13,15,20
structure	67:7 85:15	talk 28:9	67:9,10 68:23
36:21	86:3 87:6	talked 23:23	69:22,23,24
stuck 90:2	89:19 90:5	28:8 66:5	71:22 73:11,12
stuff 61:17	surprised 25:7	69:10 70:17	73:17 74:5,22
subject 40:14	82:8	talking 57:3	74:24 75:1,1
47:24 72:11	sushi 14:5	tat 17:24	76:11,18,19
submitted	suspect 70:22	tax 40:18 43:13	79:9 80:12,14
42:21 47:10	suspended	56:2 57:22	80:16 88:10,21
61:12	66:21,24 67:2	58:9,9,11	88:22 89:15
subsequently	67:3,5,13,17	taxable 57:23	90:7,11
29:17	67:18 68:2,5	57:24	thanks 12:15
success 32:15	swatch 37:10	taylor 10:20	74:6,25 80:18
successful 23:5	swim 9:19	technical 67:15	thibault 7:1
63:3	switch 67:22	67:19	thing 13:17
successfully	system 16:4	technology	16:2,17 23:23
20:17,19 21:3	23:7 27:20	27:24	35:16 38:12
26:10 32:10	28:25 33:3	tell 34:25 35:4	81:25 83:6
sued 85:24	35:12 45:8	ten 15:14 17:15	84:10 90:3
sufficient 87:1	83:1	17:16	things 12:24,24
suggest 22:6	systems 53:22	tennessee	17:13 19:8
suggests 30:6	t	60:16	21:1 31:6
suite 92:22	t 62:19 92:1,1	terms 23:17	51:17 85:12,15
sullivan 10:25	ta 11:1	67:15,19	think 12:10,22
summer 14:16	tab 78:24	terrorist 15:4	14:1,10 19:11
sums 12:10	table 40:15	37:6	19:13 23:13
supervision	54:10,15	thank 19:24	24:17 25:6,7
77:12	tacks 31:21	20:14 21:22	30:18,20 31:24
support 14:8	take 22:15	37:4 41:21	53:13,18 56:14
16:10 88:15,16	30:21 31:16	42:9 46:7,9,14	58:10,23 60:5
supporting	46:11 59:4	46:18 49:22,23	60:6 63:21
85:6	64:3 65:8	50:3 52:22,24	69:17,25 70:19
sure 14:2 17:7	67:11 68:19	53:2 55:11,20	71:4,9 80:19
22:22 25:12,13	70:21 77:5	56:24,25 60:8	80:20 82:5,16
25:15 26:23	81:13 83:16	60:13 62:1	83:5 84:18

85:6,8,9,11 87:19 88:15 89:9,17,18,20 89:22 third 29:21,24 31:25 48:1 51:19 52:8 58:22 63:3,5 thirdly 67:7 thomas 4:17 5:22 thomson 9:20 thought 15:12 16:5,6,8 24:2 31:13 38:7 64:15 thousand 33:4 34:23,25 thousands 15:12 25:9,11 thread 26:20 74:12 three 21:19 22:15 23:14 28:3 31:1 50:21 57:4 58:5 84:4 ticketing 23:6 53:22 tickets 28:2 61:13 time 14:17 15:13 16:7 17:25 18:12 20:24 26:7 27:22 30:11,17 30:21,23 31:10	31:10,16 34:16 34:18 38:7 42:15,19 46:7 49:8,22 51:17 52:23 55:20 56:24 59:16 60:13 63:21 66:20 68:20 71:6 77:3 78:8 78:14,15 79:11 80:15,20 81:5 timeline 67:1 times 37:1 81:12 timing 33:2 timothy 9:24 10:24 tipton 11:2 titled 22:2 today 19:2 21:2 22:7 24:7 42:10,16 43:16 50:8 51:16 63:25,25 64:13 71:23,25 77:2 79:7 87:19 89:11,18,20 today's 24:9 together 42:20 tokens 14:5 told 43:22 tom 8:13 tommy 7:13 toniah 4:15 tonight 53:21 tony 10:1	took 19:12 30:23,23 32:9 32:11 47:25 48:18 81:21 83:2 88:8 top 38:19 39:10 48:6 78:24 topic 48:18 topics 19:22 28:10,11 total 26:17 36:2,6 39:4 86:24 totally 29:9 33:22,24 34:6 touch 72:24 73:4 74:11 touched 49:13 track 65:11 transaction 57:23,25 transcribed 2:25 transcript 60:2 90:1 92:4 transfer 33:4,8 34:2,7,10 49:6 transferred 32:10 72:10 transfers 33:12 travis 7:8 treat 83:21 treated 19:13 45:6,8,19 46:6 66:13	treating 52:3 treatment 40:18,20 43:18 44:8 45:25 49:20 50:9,22 51:4,23 52:8 52:20 57:13,14 57:15 58:9,11 72:8,16 73:22 89:9 triage 26:3 tried 26:2 29:3 29:6 61:16 tries 28:25 tristan 5:23 trouble 23:9 true 92:4 trusted 14:18 15:6 trustee 4:2 87:3,10,11 trusts 35:21 43:1 try 19:3 23:2 29:19,19 42:1 56:20 60:5 66:24 75:8 trying 25:5 44:10 63:9,13 65:7 87:6 turestky 9:21 turn 19:15 67:11 76:9,13 76:13 turned 17:5 29:15 76:18
-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

turner 9:22 turns 15:3 24:1 twenty 26:13 twitter 79:5 two 19:19 21:12 29:7 30:1 42:16 43:23 44:23 53:4 59:13 62:9 63:2 65:8 77:22 90:1 type 21:13 49:10 typed 22:20,20 types 54:16 typing 23:1 tyson 6:11 71:17,23	unable 44:13 51:20 52:9,22 61:22 uncontested 12:22 under 17:8 32:9 34:24 43:14 57:3 63:8 71:24 72:7,15 77:12 77:25 78:1 85:25 86:12,15 understand 18:8,19 29:10 31:13 39:22,22 45:15 46:13 47:22 50:25 52:17 56:20 60:6 62:4 72:25 73:4 76:6 82:10 88:20 understandable 34:7 understanding 41:10 72:2,6,9 understands 37:15 understood 29:11 53:12 unequal 51:3 unfair 51:25 55:23 56:14 unfairly 52:1 unfortunately 32:1,3 35:19 81:21	united 1:1,11 4:1 15:17 21:16 32:20 50:5 68:13 87:10,11 universe 35:25 unmute 46:17 75:24 unmuted 75:7 75:12 unnecessary 52:13 unresolved 78:4 unsecured 57:19 80:6 unsuspend 67:20 unsuspended 68:18 unsuspending 68:17 unusual 19:4 update 22:2,3 32:22 34:15 35:3,9 61:3 76:7 77:2,6 79:7 82:1 87:18 updated 77:1 updates 21:25 26:24 31:23 42:13 79:6,8 upside 56:22 url 79:1 usd 42:23	use 39:8,13 40:3 45:16 69:11,12 83:1 used 33:2 39:7 users 23:20 61:21 62:14 67:2,4,5,13,20 67:23 68:2 77:23 using 58:19 usually 63:18
u		v	
u 55:17 62:19 u.s. 1:23 4:2 13:8,18 18:7 21:7 32:1,6 33:1 37:7 38:16 43:22 44:19 45:7,22 45:25 46:2 48:11,25 50:11 50:19,24 51:1 53:5 60:15 67:8 69:2,16 87:3 uday 10:19 ujma 9:23 ultimate 36:23 37:25			v 7:25 valid 51:3 83:22 validation 33:15 value 30:25 31:1,1 49:8,9 53:5,5 54:7,7 55:2 78:7,12 80:5 83:15 valued 55:4 83:9 values 85:22 van 10:15 vann 9:24 various 15:15 42:19 vast 25:24 vazquez 9:25 65:21,22,25 vejseli 10:1 vendor 36:16 venmo 21:7 60:16,25 61:6 61:8

verified 60:20 verify 61:17 veritext 92:20 versus 69:10 70:7 viable 45:1 52:15 video 76:12 view 84:8 vince 10:25 vincent 10:13 violate 51:24 violated 23:17 violation 67:19 70:17 visit 78:23 79:1 vitor 5:5 vladimir 6:13 voices 87:7 vote 72:6,15 voted 72:3	38:3 39:11 41:1 42:4 49:12 50:21 54:4 56:5,8 63:11,17 67:7 71:17 75:23 76:2 78:13 80:13 84:13 88:16 wanted 13:21 13:22 14:20 38:23 41:5 44:2 58:1,21 62:25 63:7 64:6 66:3,9,12 69:4 71:6 76:1 76:7 81:16,17 81:18 83:1 84:13 88:14 wants 63:16 76:14 warren 10:3 way 13:24 18:13 28:4 38:16 66:13 68:20 ways 25:20 38:24 we've 14:7 22:22,23,24 25:4,5,12,13 25:15,16 26:21 26:22 27:7,9 27:12,19 28:1 30:11,25 31:12 31:20 33:8 34:1,15 40:20	50:23 61:16,18 64:25 89:22 website 21:13 78:23 week 26:25 27:4,9,10 33:7 34:22 35:2,6 40:23,24 58:17 62:10 65:4,5,8 weeks 28:3 29:7 32:11 62:9,11,16 67:25 68:17 77:10 wei 8:25 weird 83:4 welcome 55:12 went 19:10 32:9 39:10 74:7 82:15 wesley 3:5 42:16 46:16,16 46:24 western 15:21 whack 26:5 whilst 56:8 whistles 32:12 white 76:5,20 whoa 32:23,23 32:23 wielen 10:15 william 9:11 willing 70:5 wills 43:1 win 85:19 winded 31:24	wire 33:4,7,12 34:2,7,10,24 35:1,5,7 49:6 51:15 58:17 wires 32:14 35:6 51:12 wish 38:21 41:23 75:6 84:22 87:4 88:11,23 wishes 59:15 59:18 withdrawals 70:9 withdrawn 78:8,11 withdrew 77:20 withheld 52:19 wofford 10:4 wolf 11:3 wonderful 19:21 22:9 wondering 61:21 words 24:22 67:4 work 29:4 35:1 58:23,24 60:23 68:20 77:6,15 77:17 79:9 89:15 worked 13:11 14:1,3,7 25:6 28:19 29:8 43:12
w			
w 9:15 wagener 10:2 wait 44:23 60:25 64:14 waited 42:14 waiting 31:2 43:24 wake 15:2 walks 20:6 wall 15:2 walled 72:10 want 15:2 19:15,19 21:6 23:18 31:8 35:14 36:14			

working 26:22 27:20 30:19 40:20 65:8 66:23 76:8,25 77:12 works 25:24 29:1 32:19 world 13:5 14:19 15:12 32:14 39:24 worried 32:5 worse 38:5 worth 18:6,6 43:13 50:18 55:7,8 86:9,19 writing 46:11 86:3 written 66:16 wrong 50:2 82:3 85:21 wrote 42:20 69:25 wu 4:12 66:19 66:20 68:10	64:1,1,1 75:12 87:8 year 43:9 89:5 years 60:19 yesterday 20:17 35:8 55:23 yoon 10:7 york 1:2,13 4:5 37:17 yvonne 5:21
x	z
x 1:4,10 79:5 91:1 xi 8:1 xu 10:5	zabib 11:4 zachary 11:4 zahiremami 10:8 zero 38:7 83:9 zoom 12:12 75:12
y	
y 54:1 76:18 yadav 10:6 yara 7:6 yeah 12:8 24:16 36:16 39:21 62:2	